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Assistance to Guatemala in the field of human rights

Report by the independent Expert, Mrs Mónica Pinto, on the situation of human rights in Guatemala, prepared in accordance with Commission resolution 1993/88

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INTRODUCTION

1. The Commission on Human Rights has been considering the situation of human rights in Guatemala, since its thirty-fifth session (1979).

2. In 1982 the Commission decided for the first time to request its Chairman to appoint a Special Rapporteur of the Commission, whose mandate would be to make a further study of the human rights situation in Guatemala (resolution 1982/31). The following year, the Commission reiterated the same request to its Chairman, who then appointed as Special Rapporteur Viscount Colville of Culross, United Kingdom, whose mandate was renewed annually in 1984 and 1985.

3. The mandate of the Special Rapporteur was terminated in 1986, when the Commission, at its forty-second session, adopted resolution 1986/62 of 13 March 1986. At the same time the Commission requested its Chairman to appoint a special representative to receive and evaluate the information provided by the Government on the implementation of the new legal order for the protection of human rights. The Commission appointed as its Special Representative Viscount Colville of Culross, who submitted a report at the next session of the Commission (E/CN.4/1987/24). Subsequently, the Commission adopted resolution 1987/53 of 11 March 1987, in which it decided to terminate the mandate of the Special Representative.

4. Also, in the same resolution 1987/53, the Commission requested the Secretary-General to appoint an expert with a view to assisting the Government through direct contacts in taking the necessary action for the further restoration of human rights. Following this resolution the Secretary-General appointed as Expert, on 24 June 1987, Mr. Héctor Gros Espiell, Uruguay, and in its resolution 1990/80 of 7 March 1990 requested the Secretary-General:

> "... to continue to provide the Government of Guatemala with such advisory services and other forms of assistance in the field of human rights as may be necessary to foster and strengthen the consolidation of the democratic process, and promote a human rights culture."

5. The Commission further requested the Secretary-General:

> "... to appoint an independent expert as his representative to examine the human rights situation in Guatemala and continue assistance to the Government in the field of human rights who, within the framework of his mandate, shall prepare a report with appropriate recommendations for submission to the Commission at its forty-seventh session."

6. In compliance with the request contained in Commission resolution 1990/80, the Secretary-General decided on 6 July 1990 to appoint Professor Christian Tomuschat, Federal Republic of Germany, as his representative and independent Expert to consider the situation of human rights in Guatemala and to continue assistance to the Government in the field of human rights. Professor Tomuschat's mandate was terminated on 7 June 1993 when he received a letter from the Secretary-General informing him of the Secretary-General's desire to establish a rotation of independent experts among the different nationalities represented in the United Nations and thanking him for his contribution in discharging his mandate concerning Guatemala.

7. On 10 March 1993 the Commission on Human Rights adopted resolution 1993/88 in which it requested the Secretary-General inter alia "to extend the mandate of the independent Expert so that he may continue to examine the situation of human rights in Guatemala and provide assistance to the Government in the field of human rights and submit to the Commission at its fiftieth session a report assessing the measures taken by the Government in accordance with the recommendations made to it" (para. 18). The Commission also decided to consider the question at its fiftieth session under the agenda item "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories" or the item "Advisory services in the field of human rights", in the light of the adoption and application of specific and significant measures by the Government, the effectiveness of which will be assessed in the report of the independent Expert on the situation of human rights in Guatemala (para. 19).

8. In its turn the Sub-commission on Prevention of Discrimination and Protection of Minorities adopted on 20 August 1993 resolution 1993/16, in which inter alia it expressed its firmest support for President Ramiro de León Carpio for the measures adopted in his efforts to strengthen democratic institutions, human rights and fundamental freedoms in Guatemala. It also expressed the hope that the negotiations between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) would be resumed as soon as possible with a view to reaching an agreement which would put an end to the internal armed conflict and permit the re-establishment of a firm and lasting peace.

9. For its part, the Economic and Social Council approved in its decision 1993/336 of 21 October 1993 the Commission's request to extend the mandate of the independent Expert. A few days later, on 28 October 1993, it was announced in a press release that the Secretary-General had appointed Professor Mónica Pinto, Argentina, as his representative and independent Expert to examine the human rights situation in Guatemala and continue assistance to the Government in the field of human rights, in accordance with the mandate received from the Commission on Human Rights in its resolution 1993/88.

10. In fulfilment of her present mandate, the independent Expert visited Guatemala for the first time from 24 November to 7 December 1993 and, at the end of her visit, held consultations and interviews at United Nations Headquarters, at the United Nations Office at Geneva and in Mexico. The Expert's programme of work during her visit to Guatemala is outlined in the annex to this report.

11. The Expert consulted all the accessible and reliable sources in order to acquaint herself with the situation of human rights in Guatemala. In doing so, she was afforded extensive cooperation by the Government before, during and after her official visit to the country. In addition, the Expert was free to consult a large number of persons and Guatemalan human rights, social, trade union, economic and indigenous organizations. She also consulted the documentation received from international organizations, intergovernmental organisations (especially the Organization of American States and the International Labour Organization), other United Nations agencies (in particular, the Office of the United Nations High Commissioner for Refugees) and non-governmental international organizations.

12. The Expert took all the information gathered and compared it with the provisions contained in the Universal Declaration of Human Rights, the international human rights treaties to which Guatemala is a party, such as the International Covenant on Civil and Political Rights (to which Guatemala acceded on 5 May 1992), the International Covenant on Economic, Social and Cultural

Rights (to which Guatemala acceded on 19 May 1988), the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (to which Guatemala acceded on 5 January 1990), the Convention on the Rights of the Child (which Guatemala ratified on 6 June 1990), the Slavery Convention and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, the Convention and the Protocol relating to the Status of Refugees, and many international labour conventions, including in particular Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize, 1948, Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, 1949, and Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, 1958. Guatemala is also a party to the American Convention on Human Rights, having recognized the litigious jurisdiction of the Inter-American Court of Human Rights, with effect from 20 February 1987. It is also a party to the Inter-American Convention to Prevent and Punish Torture. Lastly, in the field of international humanitarian law, Guatemala ratified the four 1949 Geneva Conventions on 14 May 1952; it also ratified the two 1977 Protocols additional to the Geneva Conventions on 19 October 1987, and on 13 September 1989 it signed the Headquarters Agreement for the establishment of an office of the International Committee of the Red Cross (ICRC) in Guatemala.

13. All the provisions of human rights law accepted by Guatemala form part of the country's internal law, because under article 46 of the 1985 Constitution "it is established as a general principle that, in matters of human rights, treaties and conventions accepted and ratified by Guatemala take precedence over internal law". This principle is repeated in article 3 of the Amparo, Habeas Corpus and Constitutionality Act of 8 January 1986. With regard to the Universal Declaration of Human Rights, Decree No. 54-86 of 1 October 1986, which was amended by Decree No. 32-87 of 28 May 1987, establishes in article 8 that the Human Rights Procurator shall be a Congressional Commissioner for the defence of the human rights guaranteed by the Constitution, the Universal Declaration of Human Rights, and the international treaties accepted and ratified by Guatemala.

14. The Expert has been interpreting her mandate as having three parts: first, to report to the Commission about developments in the general human rights situation in Guatemala; for this purpose she submits duly contrasted information to enable the Commission to draw conclusions and make recommendations. Second, to advise and assist the Government in the field of human rights, making specific recommendations to it. Third, purely humanitarian motives have prompted her on occasions to use her good offices with the Government of Guatemala in individual cases, on request, in order to try to remedy specific situations. In this latter connection, the success of the Expert's initiatives has been uneven, although in all cases they have been well received by the Government.

15. This report refers to events between January and November 1993. Other relevant earlier and subsequent information has been included when available and when considered appropriate.

I. THE POLITICAL AND INSTITUTIONAL CONTEXT IN 1993

16. In 1993 the democratic transition in Guatemala suffered a severe setback owing to the decision of the then President Jorge Serrano Elías to take all public power into his own hands. This set in motion an institutional crisis which, following the positive reaction of the people of Guatemala and the international community, led to the search for a means of consensus which produced a constitutional solution with the election as President of the former Human Rights Procurator, Ramiro de León Carpio.

17. On 25 May 1993 President Serrano announced to the Guatemalan people the dissolution of the National Congress, the Supreme Court of Justice and the Constitutionality Court and the suspension from office of the acting Public Prosecutor (Procurador General de la Nación). The National Police surrounded the private residences of the President of the Supreme Court, Juan José Rodil Peralta, the President of the National Congress, José Lobo Dubón, and the Human Rights Procurator, Ramiro de León Carpio.

18. What the international press rightly described as a "self-coup" was explained by the President as due to the "power acquired by drugs trafficking in the country and by the mafias which have penetrated into various areas of State power, and to the pressure and blackmail to which he is being subjected by such groups". A few hours after the President's statement, the then Defence Minister, General José García Samayoa, expressed the army's support for the action taken by the President. The self-coup by President Serrano emulated the first manifestation of this political phenomenon pioneered by President Alberto Fujimori in Peru on 5 August 1992, when he declared the dissolution of the Parliament and the reorganization of the Judiciary.

19. On the same date, with the endorsement of the Minister of the Interior, President Serrano issued a decree on "Temporary Regulations of Government" in which he ordered the suspension of the following articles of the Constitution of the Republic of Guatemala: freedom of action (art. 5), illegal detention (art. 6), interrogation of detainees or prisoners (art. 9), inviolability of private homes (art. 23), freedom of movement (art. 26), right of assembly and demonstration (art. 33), freedom of expression (art. 35.1), holding and bearing of arms (art. 38.2), strike regulations for State workers (art. 116.2), legislative powers and election of deputies (art. 157), and functions of the President of the Republic (art. 183). To this was added in practice censorship of radio and television broadcasting and the press. The President based his action on the provisions of article 21 of the transitional and final clauses of the Constitution.

20. The reaction of the people and of institutions to these acts, which meant a genuine interruption of the existing democratic and institutional order, was not long in coming; nor was that of the international community, mainly in regional terms. Important sectors of Guatemalan society organized themselves into the Instancia Nacional de Consenso (National Consensus Organization) and the Foro Multisectorial Social (Multisectoral Social Forum). The former was composed of the various political parties, trade unions and businessmen; the latter of various people's organizations, united and led by the winner of the Nobel Peace Prize, Mrs. Rigoberta Menchú Tum.

21. Still on 25 May 1993, the Constitutionality Court adopted, in order 225/93, a resolution declaring the Decree on Temporary Regulations of Government unconstitutional. However, the refusal of President Serrano to heed the decision declaring his decree null and void compelled the Constitutionality

Court to issue a further resolution to give effect to the earlier one. On 26 May 1993, the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH) issued a document on "Analysis of the Temporary Regulations of Government decreed by the President of the Republic on 25 May 1993", in which it stated that, in view of Guatemala's commitment to certain international instruments, such as article 4 of the International Covenant on Civil and Political Rights (in force since 5 August 1992) and article 27 of the American Convention on Human Rights (in force since 18 July 1978), "it is impossible to suspend any of the guarantees concerning the right to life and concerning torture, slavery and servitude, imprisonment for debt, conviction for acts which are not crimes, recognition of juridical personality, freedom of thought, conscience and religion, right to integrity of the person, principles of legality and retroactivity, protection of the family ... political rights and the judicial guarantees essential for the protection of such rights".

22. Still on 26 May 1993, the then Human Rights Procurator, Ramiro de León Carpio, issued the "Historic Declaration of the Human Rights Procurator", stating his "total and absolute rejection" of the presidential decree. Legally disqualifying the measure, he stated that "no part of the (Constitution) authorizes the President to dissolve the organs of State or assume functions belonging to other organs, such as legislative and judicial functions, or much less to concentrate all the power of the State in the Executive, nullifying totally the system of republican, democratic and representative government". He stated further that article 21 of the Constitution provides that "all legislative, administrative and governmental acts which diminish, restrict or impede the rights and liberties guaranteed by the Constitution shall be null and void". He also announced his decision to suspend his functions and powers temporarily until the constitutional order was restored.

23. On 29 May 1993 the Human Rights Commission of Guatemala reported that warrants of arrest had been issued against directors of communications media, journalists and trade unionists and that some of them had been illegally detained; it also announced the presence of army personnel in the streets of Guatemala City terrorizing the population, the suspension of publication of the newspaper Siglo XXI when it refused to accept the censorship, the detention in police custody of members of the Judiciary trade union, etc.

24. By an order of 4 June 1993 the Constitutionality Court declared that the Vice-President of the Republic, Gustavo Espina Salguero, was not qualified to succeed President Serrano in exercise of the executive function by virtue of article 186 (a) of the Constitution which provides that "the following persons shall not be eligible for the post of President or Vice-President of the Republic: (a) the leader or chief agents of a coup d'état, armed revolution or similar movement who have disrupted the constitutional order, or persons who have assumed the leadership of Government as a consequence of such acts". Pursuant to article 189 of the Constitution, which provides that in the event of the permanent absence of the President and Vice-President "a person chosen by the Congress by a two-thirds vote of all deputies shall be appointed to complete such a period", the Constitutionality Court set a deadline of 24 hours for the Legislature to elect the new President of the Republic. When the deputies failed to reach agreement, the Instancia Nacional de Consenso proposed a short-list of candidates, and Ramiro de León Carpio was elected in the second round of voting.

25. Early on the morning of 6 June 1993 the former Human Rights Procurator, Ramiro de León Carpio, was invested as President of the Republic of Guatemala.

The appointment of the new President, who had family connections to a political party but did not himself belong to any party, marked the opening up of a path to political and social consensus which provided a solution to the crisis by a method different from the habitual one of military coup d'état.

26. Changes in the membership of the Government were not long in coming. The appointment of the Defence Minister, who under article 246 of the Constitution must be an officer of the army had a difficult passage: General García Samayoa was replaced by General Roberto Perussina, until then head of the Chiefs of Staff; then on 28 June he was in turn replaced by General Mario René Enríquez Morales, who holds the post at present. The head of the Presidential General Staff and the Director of Intelligence of the Chiefs of Staff were also replaced.

27. The new President issued a Government Plan, called "180-day Plan", which rested on five main pillars: the transformation of production, the fight against poverty, the consolidation of the democratic process, the institutional modernization of the Government, and priority attention to the environment. These pillars constitute, according to the Government, the frame of reference and the basis of the 1994-1995 Government Plan. The Plan is to be evaluated at the end of December 1993, when the President will inform the people of the results obtained.

28. The elimination of State corruption and the achievement of greater transparency in the public administration were the objectives outlined by the President as the first steps in a campaign for restructuring and purging of the Legislature and the Judiciary and for the elaboration of a number of constitutional reforms. The President stated that the cleansing operation would take two forms: the so-called "legal" form consisting of a proposal for constitutional reform which would eliminate inter alia the privilege of antejucio for deputies, judges and other senior State officials, as well as the undisclosed expenditure by the Executive; and the so-called "legitimate" form which would mean requests for the resignation of members of the Legislature and the Judiciary.

29. On 23 August 1993 the National Assembly requested an advisory opinion from the Constitutionality Court concerning the legality of reducing the term of office for which members of the Parliament had been elected and of bringing forward the elections. The Court replied that, although deputies had the option of resigning and calling in their substitutes, it was not legal to speed up the electoral process. On 26 August 1993, in a message disseminated to the whole people, the President requested the resignation of the members of the Congress and of the judges of the Supreme Court of Justice, setting a deadline of 72 hours for the resignations to become effective, and he indicated the option of holding a referendum on the matter. Initially set for 28 November, the option of a referendum was abandoned in view of the agreement reached on 16 November by the various organs of State concerning the resignation of members of the Congress and approval of a constitutional reform modifying inter alia the arrangements for election of the members of the Supreme Court. However, it must be pointed out that the consensus finally achieved included a decision of the Constitutionality Court dated 11 November to suspend the referendum provisionally in view of the unconstitutionality action brought by the former judge Héctor Zachrisson Descamps. In any event, the undesired effect of this process was the virtual paralysis of the essential functions of the Legislature and widespread dissatisfaction in the higher levels of the Judiciary.

30. The constitutional reforms approved by the Legislature on 17 November 1993 which, in accordance with article 280 of the Constitution, had to be submitted to a referendum of the people set for 30 January 1994, relate to the organic part of the Constitution. With regard to the Executive, the reforms provide for a reduction in the term of office of the President to four years and the election of the President and Vice-President by universal secret ballot (art. 184) and the automatic promulgation by the Congress of decrees not passed back to it by the President within 15 days of their receipt (art. 178). With regard to the Legislature, the reforms envisage a reduction in the number of deputies from 116 to 70, with a term of office of four years and election by universal secret ballot, as well as discontinuation of the national-list system and of substitute deputies (art. 157), the extension of the regular sessions of the Congress (art. 158), with the consequent deletion of the second paragraph of article 162, and the abrogation of article 160 which authorizes deputies to hold other jobs. With respect to the Judiciary, the following changes are envisaged: increase in the number of judges of the Supreme Court of Justice from 9 to 13 and recognition of their right to organize themselves into the number of chambers which they decide (art. 214); Supreme Court judges must be elected for a period of five years from a list of 26 candidates submitted by a nominations commission consisting of the deans of the faculties of law, a similar number of representatives chosen jointly by the Board of Directors and the Court of Honour of the College of Lawyers and Notaries, and a similar number of representatives of the titular judges of the Appeals Court and other collegiate courts, and a representative of the rectors of the country's universities, with all decisions taken by a two-thirds vote of the members of the commission (art. 215); Appeals Court judges must be elected in the same way as the judges of the Supreme Court, but the nominations commission includes representatives of the Supreme Court (art. 216); and the system of substitute judges of the Supreme Court is discontinued (art. 222). The reform provides for a division of functions between the Ministry of the Interior (Ministerio Público) and the Office of the Public Prosecutor (Procuraduría General de la Nación) and it envisages the appointment of an Attorney-General (Fiscal General) as head of the Ministry of the Interior, at present a collegiate body, by the President of the Republic from a list of six candidates proposed by a nominations commission consisting of the presidents of the Supreme Court of Justice, the Board of Directors and Court of Honour of the College of Lawyers and Notaries, and the deans of the faculties of law, with decisions taken by a two-thirds vote of the members (art. 251); the Office of the Public Prosecutor shall act as proxy for the State and provide advice to the organs of State and it is to be headed by a Public Prosecutor with a term of office of four years (art. 252).

31. With regard to public expenditure and its control, the Banco de Guatemala is prohibited from providing support to the public sector or to non-banking private bodies except in the case of disasters (art. 133); the Controller-General of Accounts must be elected from a list of candidates proposed by a nominations commission similar to the one envisaged in article 215 but with the professional requirements taken into account (art. 233); the qualification of Public Accountant and Auditor is required for appointment as Controller-General of Accounts (art. 234); undisclosed, unverifiable and uncontrolled expenditures are prohibited, and the General Budget of Revenue and Expenditure and measures concerning the disposition of funds must be published (art. 237-238); any augmentation of the General Budget by the Congress without prior verification that income for the purpose is available is prohibited (art. 240). The election of municipal authorities (mayors, council chairmen and councillors) shall be by universal and secret ballot for a term of office of four years with the possibility of re-election (art. 254); article 256 concerning the classification of municipalities is abrogated; the appropriation from the General Budget for

municipalities is increased to 10 per cent and at least 90 per cent of this appropriation must be used for programmes and projects in education, preventive health, infrastructure works and public services which improve the quality of life of the inhabitants (art. 257).

32. One day before approval by the Legislature of the constitutional reforms the Legislature and the Executive adopted an agreed agenda of topics for consideration by the present Legislature which includes the following: General Budget of Revenue and Expenditure Bill for the fiscal period 1994 (recently vetoed by the President), bill on legal sanctions against tax evasion, bills approving foreign loans and borrowing, land-tax bill, reforms to the rules of procedure of the Legislature, reforms to the law on elections and political parties, abrogation of the Code of Criminal Procedure, Office of the Attorney-General Bill, Office of the Public Prosecutor Bill, Organic Law on the National Police, integrity and responsibilities bill and other bills concerning matters of national interest.

II. THE KEYS TO THE HUMAN RIGHTS SITUATION IN GUATEMALA

33. Her study of the human rights situation in Guatemala and the direct impression of the country which she obtained during her mission from 24 November to 7 December 1993 led the Expert to identify five areas - without establishing any kind of priority among them - which in her view determine the availability and effectiveness of the enjoyment and exercise of human rights in Guatemala. Each of these areas provides a frame of reference for the specific level of protection of human rights and, taken together, they explain the situation in Guatemala.

A. The internal armed conflict and the peace process

34. At the various levels of the Government it is believed that the internal armed conflict which has been going on for 33 years is the main cause of violations of human rights in Guatemala. With the advent of democracy, during the term of office of President Vinicio Cerezo Arévalo, the first steps were taken towards the establishment of a process which would lead to peace; the implementation of this process began during the term of office of President Serrano. However, the conception of the peace process has been different in the two Governments which the country has had in 1993.

35. During the administration of Mr. Serrano, the Government became deeply involved in negotiations with the Unidad Revolucionaria Nacional Guatemalteca (URNG) following the Oslo Agreement of 28 March 1990, and it achieved the agreements of Mexico (1991) and Querétaro (1992). At the end of 1992 the National Conciliator, Monsignor Rodolfo Quezada Toruño, stated that two matters remained pending with regard to an agreement on human rights: the first concerned the establishment and initiation of a commission on the truth or the past, and the other concerned the entry into force of the agreement on human rights and its international verification.

36. In January 1993 President Serrano made a proposal in which he accepted the immediate entry into force of the agreement on human rights with immediate international verification and requested the URNG to accept a ceasefire under international supervision within a period of 90 days. From March to May 1993 the parties dealt simultaneously with the remaining issue of the human rights agreement - the commission on the truth or the past - and a commitments

document including a timetable for the negotiation of a ceasefire. Despite some progress, no agreement was possible, and the negotiations were broken off on 5 May.

37. The first steps by the administration of Mr de León Carpio were taken on 7 July 1993 when the President outlined his future policy in the matter. The negotiations were to be divided into two sections:

(a) The first, to be implemented in Guatemala under the auspices of a permanent forum for peace chaired by Monsignor Quezada Toruño, would deal with all the basic topics regarded as major causes of the armed conflict (poverty, distribution of wealth, landholding, health, education, etc.); and

(b) The second, which would be implemented outside Guatemala, would concern the Government and the URNG, with the assistance of one or several mediators of the United Nations and OAS, with the aim of defining ways of helping to bring the armed conflict to an end (ceasefire, disposition of troops, demobilization, signature of the peace agreement, modalities of the reincorporation of the members of the URNG in national life).

38. On 16 June 1993 the URNG Command declared that the proposal of President de León Carpio

> "... suffers from the following basic structural defects: It arbitrarily thrusts aside three years of negotiations (...) It says nothing about recognition of the parties to the negotiations (...) It disregards the content of the negotiations and the agreements reached during them. It excludes and nullifies the role, functions and person of the Conciliator. By separating and breaking up the global negotiations for peace and democracy and by modifying their format, logic and concept it distorts the whole process and seeks to establish two levels of negotiation of differing importance".

In short, URNG maintained that "it is impossible to annul the whole of such an important process".

39. On 8 September 1993 the Government established the Governmental Commission for the Peace Negotiations consisting of Héctor Rosada Granados (coordinator), Max Kestler and Mario Permuth, and Generals Mario Antonio González Taracena and Víctor Manuel Argueta Villalta and Colonel Víctor Ventura Arellano; Mr. Ernesto Viteri and Mr. Antonio Arenales Rorno were appointed as advisers. On the same date the National Conciliator submitted to President de León Carpio, the URNG and the United Nations Observer a confidential document concerning a draft plan for resumption of the peace negotiations. Since Mr. Rosada Granados referred publicly to the document, the National Conciliator decided to publish it on 21 September 1993.

40. Monsignor Quezada Toruño proposed that he should undertake a series of very discreet shuttle meetings, accompanied by the Observer, with a view to establishing the agenda for a preliminary meeting between the Government and the URNG so that the parties could ratify the agreements of Mexico and Querétaro and agree on the changes to the Oslo format: secrecy, participation of the civilian sectors of Guatemalan society, possible mediation by the United Nations in operational military matters, establishment of the bases for the conclusion of a human rights agreement (commission on the past or the truth) and international

verification thereof, and establishment, by agreement, of the machinery of the permanent forum for peace. This forum would be in permanent session for two months and would split up into five groups to deal with substantive rather than transient matters. The groups would be coordinated by the Conciliator with the help of five advisers who would meet periodically in plenary session to study the results achieved. The URNG would be represented in the groups, and the United Nations Observer and the group of friendly countries would be able to attend all the meetings.

41. On 5 October 1993 Guatemala set out its peace plan in the United Nations General Assembly. As the Coordinator of the Governmental Commission explained to the Expert, the proposed process is qualitatively different from the one followed so far. It is a question of building peace - the state of balance which allows understanding and dignified existence - and not just of signing a peace agreement. With regard to the structural causes of the armed conflict, the Government believes that the main protagonist in the peace process is civil society. With this in mind it has devised a plan which proposes three clear actions: (a) fighting poverty, taking into account the general situation and also the situation of the most seriously affected groups which have suffered exclusion in the past; (b) initiation of a serious and sustained process of conciliation in society, and establishing a permanent forum for peace in order to provide room for society to organize itself and participate; and (c) ending the internal armed conflict as an act of national reconciliation and not just with regard to the military situation. The plan provides for an amnesty for the members of the URNG with a view to their incorporation in the life of the nation, and for the functioning of a national reconciliation commission, and it includes in an annex an official declaration of human rights.

42. Reactions to the peace plan differed. The URNG Command, expressing itself in similar terms to the ones used when stating its position on the proposals published on 7 July 1993, and the majority of the organized sectors of civil society came out against the plan; in contrast, the army and the Confederation of Businessmen (CACIF) approved it. On 18 October 1993 the Episcopal Conference of Guatemala issued a public statement reaffirming that "dialogue is the only viable means of finding a political and negotiated solution to the internal armed conflict and removing its underlying causes" and expressing the conviction that "the dialogue will not bear fruit as long as the parties to the conflict continue to think in terms of vested interests such as the maintenance of unjust economic positions or claims that the truth about the horrific acts which have been committed in our country is being concealed under the veil of impunity, especially if the moral or material perpetrators of such acts continue to hold a large share of power. It is therefore necessary to have a commission which will record such acts and report on them in detail". The document goes on to say that "it is essential to sign an agreement which will both guarantee the full observance of human rights and establish the mechanisms for immediate international verification".

43. On questions of human rights, which is what this report is concerned with, the Government delegates explained to the Expert their vision and the details of their proposals. However, the meetings held subsequent to the Expert's visit, meetings which led to the signature of a framework agreement for the resumption of the negotiations between the Government of Guatemala and the URNG, have resolved many of the controversial issues.

44. With regard to the application of international humanitarian law, the Government advisers told the Expert that in that matter Guatemalan law was applicable and that it provided standards for the protection of the human

person. They stated that, although the Geneva Conventions of 1949 and the Additional Protocols of 1977 were in force in the country, their implementation would mean granting the status of belligerent to the URNG.

B. The militarization of Guatemalan society

45. Earlier reports on the human rights situation in Guatemala submitted to the Commission on Human Rights have highlighted the role played in the recent history of Guatemala by its armed forces. By virtue of its size and its functions the army has become the strongest element in the real governmental power in the country. It is difficult to dissociate its participation in the national decision-making process from the political instability in Guatemala. This participation is the reason for the prolonged political crisis of a country in which the formal institutional system and the system of power do not always coincide.

46. Whatever the institutional situation in Guatemala, the army is the only institution with a presence throughout the national territory. According to the figures given to the Expert by the Defence Minister and the army officers responsible for each of the areas mentioned, the following are the approximate numbers of personnel legally employed in the military in the country: 50,000 career personnel in the army; an average of 30,000 citizens recruited each year for compulsory military service; 8,000 military commissioners; 500 regular members and 1,700 special members of the Mobile Military Police; 730 members of the Presidential General Staff; 450 agents in the Intelligence Department of the Chiefs of Staff (as well as 3,000 non-military informers); and 537,000 members of the civilian self-defence patrols (PAC), of which only 16,700 have firearms.

47. These figures produce a total of about 630,000 people with various degrees of militarization in a country of about 10 million inhabitants in which an internal armed conflict is being conducted against an irregular force calculated by the Ministry of Defence to total 800 men and women. Quite apart from this numerical imbalance, the immediate conclusion is that the Republic of Guatemala has a very big army and a very small State or civil authority. The social presence of the army manifests itself through a banking entity, an insurance company, a television channel, a football team and a network of teaching centres.

48. The militarization is measured not only in numbers but also in the widespread awareness of the skills and efficiency of the armed institutions which gives them room to create a need for their presence outside the military area itself. In this connection there is an overlapping of the functions accorded by law to the National Police and the Mobile Military Police; the country does not have a civilian State intelligence service, and this means that military intelligence has become the most widely used source of information for all State organs, including civil ones such as the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH). The team of investigators of the Office of the Human Rights Procurator was infiltrated by military intelligence and this led to the removal of most of these investigators when President de León Carpio took office, but it has still not been fully restaffed. During December 1993 the army was requested to help the National Police in clearing up cases of kidnapping of private citizens.

49. This game of presence and influence means that the army is not slow to issue statements concerning facts and situations relating to the country's political life which ought to be considered only by institutions of the civil

authority. However, the rules of the game of civil society do not prevail at the moment when responsibilities are assumed. Guatemala has a very broad military jurisdiction which covers all persons answerable to the army for any act whatever and not only for failures or offences of a military nature; this is a kind of personal jurisdiction contrary to the provisions of article 14 of the International Covenant on Civil and Political Rights and article 8 of the American Convention on Human Rights. By virtue of this jurisdiction the army does not answer to civil society any more than it does to the political authorities.

C. The social violence

50. In urban and ladino Guatemalan society violence is taken to be a means of resolving conflicts. Every day the press publishes large numbers of reports concerning victims of armed attack, robberies by armed gangs, and persons injured or killed over matters of passion. With regard to the figures for persons possessing arms which may be inferred from the previous chapter, it must be pointed out that the Constitution embodies in Title II concerning human rights, Chapter I concerning individual rights, the right to possess and bear arms (art. 38). Accordingly, the number of armed persons is infinitely higher than may be inferred from the number of militarized persons in society.

51. One very controversial issue in the Guatemalan situation is that of the so-called civilian self-defence patrols (PAC), groups created for counter-insurgency purposes which will be discussed in detail below. At this point it is important to stress the involvement of PAC members in acts of social violence having no connection whatsoever with the armed conflict. There have been cases of murder committed by patrol members resulting from matters of passion and family quarrels such as the one which resulted in the kidnapping and subsequent killing of Francisco Ajmac Ixcoy, aged 22, and Juan Patzam Pérez, aged 43, by members of the El Quiché PAC in Amatitlán on 15 June 1993. In these cases, in which there is no question whatsoever of a political or trade union motive, it is clear that the members of the PACs operate beyond what could be called the limits of their territorial competence and, given the use of types of firearm prohibited to the ordinary citizen and the use of the coup de grace, the conclusion is that these are prima facie cases of summary execution.

52. This situation contributes to the widespread confusion between common criminality, offences of political motivation, and violations of human rights, since each of these symptoms of social pathology is expressed in the form of the other. The result is thus a decentralization of the coercive power of the State and a delegation of responsibilities, as in the case of the PACs, which the State does not control.

53. In this context the activities of the National Police are overtaken by events. Notwithstanding the disbanding of the "Hunapú" combined force and the system for the protection of citizens (SIPROCI), in accordance with the recommendations of the Expert Professor Tomuschat, the present civilian chiefs of the National Police established on 8 August 1993 the "Civil Security Forces", a combined mobile integrated-reaction brigade consisting of members of the National Police and 80 members of the Guardia de Hacienda, making a total force of 860, to provide support in the capital and in the departments for the disarmament campaigns and for the campaigns against car thefts and crimes committed by gangs of children. The brigade is headed by a commissioner of the National Police who reports directly to its Director. The Mobile Military Police continues to take part in joint ad hoc operations with the National Police.

54. The problem is exacerbated by the inefficiency of the justice system which results in a kind of de facto impunity; the system has little effect on the widespread violence, and a vicious circle is created in which society struggles for its life.

D. The widespread extreme poverty

55. The geography of Guatemala shows a genuine division between the urban areas, essentially the capital and the city of Quetzaltenango, and the rural areas, including the small villages. Some three million people live in the urban areas and the remaining seven million in the rural areas. Living conditions in the two situations are entirely different. The Government of President de León Carpio has recognized "the extreme poverty of the majority of the population" (Outline of Health Policy 1994-1995, p. 21).

56. According to the data published by the Government and the figures given to the Expert during her mission, the current health and education situation in Guatemala is as follows: the mortality rate in the first year of life is 54 per 1,000 and 100 per 1,000 in the first five years of life; the maternal mortality rate is 24 per 1,000; 50 per cent of the population lacks primary health care, 20 to 30 per cent receives inadequate medical care and only 42 per cent has a clean water supply and sanitation (without the urban areas the figure falls to 28 per cent), 85 per cent of the piped systems deliver partly polluted water and 90 per cent of the rural water supply is polluted; and the illiteracy rate is 43 per cent. The hardships indicated by these figures have their greatest impact on the indigenous and peasant populations.

57. The Communities in Resistance (CPR) lack, amongst many other things, any health or education plans. At the beginning of November 1993 the non-governmental organization Médecins sans frontières set up a camp with three professionals (a doctor, a nurse and a nursing assistant) in the La Sierra CPR. In the Victoria 20 de Enero community, the first settlement of returnees who had fled to Mexico, the health service is provided essentially by Médicos del Mundo in the form of seven professionals (four doctors, one nurse and two health technicians).

58. The economically active population totals 2,840,000 and has the following structure: 33 per cent full employment, 2 per cent open unemployment, 5 per cent concealed unemployment, 10 per cent open underemployment, and 50 per cent concealed underemployment. The basic wage for a farm worker is 14 quetzales a day (about US$ 2.50), and for workers in other sectors it is 11.20 quetzales. The basic salary of a preprimary or primary teacher is 700 quetzales a month plus a fixed supplement of 175 quetzales and a 20 per cent long-service payment for each five years of service. The inactive population totals 27,062 and, pursuant to a recent decree, such persons receive 516 quetzales a month (less than US$ 100).

59. Only 29 per cent of businesses are recognized by and contribute to the social security system, although this is mandatory, since the Ministry of Labour does not have the power to impose coercive measures in the event of non-compliance with the regulations.

E. The indigenous majority

60. According to official studies, 60 per cent of Guatemala's total population is indigenous. When referring to this subject the same sources mention the diversity of cultures and the ethnic diversity. The size of the indigenous

population is matched by the lack of any State policy for it. In fact, Guatemala persists in approaching the issue from the perspective of the individual human rights of the Indians; this is the wrong approach since the human rights instruments refer to "all human beings" and take non-discrimination as their guiding principle. For the present purposes, the rights of the indigenous communities will be examined in the terms used in the Constitution itself.

61. Chapter II of the Constitution, concerning social rights, devotes its third section to the indigenous communities. This section includes a series of protective regulations which, by virtue of article 70, merely state a programme since they require the enactment of laws for their implementation. To date, as far as the Expert has been able to establish, mainly in her meeting with the members of the Congressional Commission on Indigenous Communities, there has been no development of the constitutional standards, and the steps taken in this direction by the legislators, with the assistance of a United Nations adviser, have been very tentative. Nor has the Parliament approved ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, to which Guatemala acceded during the term of office of President Serrano. Exaggerated fears of secession and unresolved land problems seem, generally speaking, to be what is holding up this procedure.

62. Article 66 of the Constitution provides that the State "shall recognise, respect and promote" inter alia the "customs" of the various ethnic groups which include the various indigenous groups of Mayan descent. However, the facts show that such customs are not taken into account, for example, by the Judiciary. Although it is true that Guatemala has no de jure discrimination, it is equally true that the juridical, socio-political and economic situation manifests de facto discrimination.

63. The lack of legislation concerning the indigenous communities means that they are excluded from the national judicial system. Bilingual education is not at all firmly established: it accounts for only 2,000 of the 44,000 teachers working in the public sector. The high dropout and truancy rates are due to the indigenous peoples' perception of the education system as a means of imposing an outside culture to encourage a ladino outlook and to their belief that the education system is unsuitable for their social and economic situation because it disregards the farming and crop calendars.

64. Political rights exist only in form for the indigenous population, for it has no legal means of obtaining elective political posts. The few persons of indigenous descent found at the various levels of government are there because they belong to one of the traditional political parties and not because they are authentic representatives of a majority community.

65. It is generally accepted by Guatemalan society, including the Government, that the indigenous communities have peaceful forms of association and receive social benefits. Their commitment to society at large has found forms of expression not only in pressure groups whose objective is to achieve formal and real recognition of the existence and dignity of indigenous peoples but also in human rights organizations such as the "Runujel Junam" Ethnic Communities Council (CERJ) or the broader-based Guatemalan Widows' National Coordinating Committee (CONAVIGUA). In a society in which women traditionally take second place, the winner of the 1992 Nobel Peace Prize, Rigoberta Menchú Tum, and the director of CONAVIGUA, Rosalina Tuyuc, have created opportunities for airing the Guatemalan reality.

III. INFORMATION ON THE HUMAN RIGHTS SITUATION IN GUATEMALA

66. During 1992 the Office of the Human Rights Procurator of Guatemala processed 1,552 reports (1,087 concerning civil and political rights and 465 concerning economic, social and cultural rights). From 1 January to 30 November 1993 the total was 1,488 reports (861 concerning civil and political rights and 627 concerning economic, social and cultural rights). These figures, which show a slight improvement in the overall situation in 1993, also indicate a shift in the poles of violation. While the number of reports concerning extrajudicial executions, torture and enforced disappearances has declined, there has been a contrasting increase in reports concerning threats, kidnappings and other crimes attributed prima facie to the PACs and concerning violations of the right to private property. There has also been an increase in reports concerning violations of economic, social and cultural rights.

67. On 27 October 1993 the Human Rights Procurator, Jorge Mario García Laguardia, declared in public his concern about the "alarming increase" in the number of reports, calculated to be 130 per cent higher than in the same period of the previous year.

68. These data will be discussed below together with other facts of Guatemalan life connected with the availability and enjoyment of human rights, such as the situation of displaced persons, including the Communities in Resistance (CPR), refugees and returnees.

A. Civil and political rights

1. Enforced disappearances

69. Various levels of Government and some human rights bodies in Guatemala entertain a distorted notion of enforced disappearance which is not in keeping with the international criteria and which is sometimes confused with the notion of missing person in civil legislation. Quite apart from the substantive issues affected by this conceptual confusion, the relevant statistics are also imprecise.

70. For example, the Office of the Human Rights Procurator, which works on the basis of the international criteria in this matter, states that in 1992 it received 79 reports, as against only 50 up to the end of November 1993, and that it has recorded 70 cases of missing persons during the period under a separate heading. The Human Rights Office of the Archdiocese of Guatemala reports 39 cases, 16 of them occurring since the new Government entered office. The Centre for Human Rights Research, Study and Promotion (CIEPRODH), a non-governmental organization based in Guatemala, recorded 40 cases in the same period on the basis of press reports, 29 of which occurred or came to light from July onwards. The Human Rights Commission of Guatemala, based in Mexico City, reports 20 cases up to November 1993, 16 of them occurring since 6 June 1993. The Mutual Support Group (GAM), based in Guatemala City, recorded 18 cases up to 26 October 1993. Furthermore, the Working Group on Enforced or Involuntary Disappearances of the Commission on Human Rights has 2,998 cases awaiting clarification in Guatemala (E/CN.4/1993/25, paras. 227-244).

71. The discovery of secret graveyards and the forensic anthropology studies which have been or are being carried out indicate the systematic practice of enforced disappearance in Guatemala in the 1980s. The cases already mentioned in the earlier reports of the Expert Professor Tomuschat of Maritza Urrutia, the nun Diana Ortíz and Carmen Valenzuela provide evidence of enforced disappearance

during the period of constitutional rule. These women recognized the places where they were held captive but their testimony has not led to serious investigations to determine who was responsible for the crimes.

72. Although it is true that the Government of President de León Carpio is not pursuing a policy of enforced disappearance, it is equally true that it is faced with allegations in several cases which place the State in an embarrassing position. One example is the case of Efraín Bámaca Velázquez (Comandante Everado), a member of URNG, who according to official information was killed in a clash with army troops on 11 March 1992. When the corpse was exhumed it was found not to be Bámaca. In his testimony the former member of the URNG, Santiago Cabrera López, who was captured by the army but later escaped, stated that he had seen Bámaca alive on 12 March in Santa Ana Berlín, military zone 1715 of Quetzaltenango, and on 18 July 1992 in the San Juan de Loarca military base, municipality of El Tumbador, and again on the following day showing clear marks of torture. The requests made to the Government in this connection by Professor Tomuschat were not satisfied. A petition has been submitted to the Inter-American Commission on Human Rights concerning the enforced disappearance of some 35 other URNG combatants.

73. On 27 May 1993, Otto Seissig, Azucena Vargas Monterroso, Sandra Sazo de Alvarez and Jorge Luis Estrada Ortíz, members of the Judiciary trade union were arrested by the police during a demonstration in Guatemala City to protest against the measures taken at that time by President Serrano, and there is still no news as to their whereabouts. On 7 September 1993 the peasant Salvador Aguirre Corado was arrested by four men, three of them wearing military dress, and no information about him is available. On 19 October 1993 Francisco Guarcas Cipriano, a member of the Mutual Support Group (GAM), was abducted in Guatemala City by four army collaborators and former PAC members, and his fate is still not known. On 27 October 1993 Marco Choco Damas, a member of the National Council of Displaced Persons of Guatemala (CONDEG), was arrested by soldiers in Baja Verapaz. Amnesty International requested the United Nations - the independent Expert and the Special Rapporteur on the question of torture - to give special attention to his case since it feared for his life.

2. Summary executions

74. The Office of the Human Rights Procurator received 300 reports of extrajudicial executions in 1992 as against 166 up to 30 November 1993. For the same period of 1993 the Human Rights Office of the Archdiocese of Guatemala recorded 169 cases. On the other hand, on the basis of press reports CIEPRODH recorded 262 cases. GAM reports 171 cases up to 26 October 1993. Between 6 June and 26 October 1993 the Human Rights Commission of Guatemala recorded 70 cases. Furthermore, the Special Rapporteur on extrajudicial, summary or arbitrary executions of the Commission on Human Rights approached the Government on 39 occasions in the first eight months of the year with regard to a large number of persons who had been threatened.

75. There is no doubt that the discovery of secret graveyards, for example at the village of Río Negro (Rabinal, Baja Verapaz) in which were found the skeletal remains of 177 women and children executed on 13 March 1982, demonstrates that summary execution was a systematic practice in the 1980s, as the Human Rights Procurator stated on 9 November 1993.

76. More recently, the murders of the anthropologist Myrna Mack (on 11 September 1990, 27 stab wounds) and the United Stats citizen Michael Devine (on 8 June 1990, beheaded) cannot be regarded as anything but

extrajudicial executions, a kind of de facto death penalty. The same conclusion may be drawn with regard to the murder of the member of the National Centre Union (UCN) and owner of the newspaper El Gráfico, Jorge Carpio Nicolle, a first cousin of President de León Carpio, which was committed on 3 July 1993, and also cost the lives of three of his companions, by about 25 heavily armed persons wearing black ski masks who, according to eye witnesses, gave the order "Kill Carpio".

77. The deaths of four inmates of the Zone 18 prison in Guatemala City seem to fall into the same category. According to information provided by the Office of the Human Rights Procurator on 2 November 1993, Antonio Abel Castillo Méndez, José Ernesto Morales Campos, Moisés Tum Zoc and Oliverio Angel Echeverría Oliva were found dead in their cells bearing marks of strangulation. These facts have been linked by public opinion with the statements by the convicts Francisco Solbay Santay, Tiburcio Hernández Hernández and Jorge Guillermo Lemus concerning the existence of death squads and secret prisons. The first two men were serving sentences for being materially responsible for the murder of Michael Devine and the third man for repeated automobile theft.

3. Torture and other cruel, inhuman or degrading treatment or punishment

78. The Office of the Human Rights Procurator received 34 reports of torture up to 30 November 1993 as against 26 in 1992. On the other hand, the Human Rights Office of the Archdiocese of Guatemala recorded only five cases in the same period. In that period CIEPRODH counted 33 cases reported in the press. The Human Rights Commission of Guatemala reported 67 cases up to 26 October 1993.

79. In its internationally accepted meaning, which is also binding on Guatemala since it has acceded to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, torture and ill-treatment can be either physical or psychological. Into this category fall a number of instances of unlawful deprivation of freedom of rank-and-file trade union members who were released shortly afterwards bearing clear marks of physical torture. On 17 June 1993 Elizabeth Recinos, a public health worker, was deprived of her freedom until 19 June when she was released, in a state of terror and showing signs of torture. She is at present living in exile in the United States in a rehabilitation centre for victims of torture. The trade union member Luzbia Salam, at present living in exile in Canada, also suffered psychological torture, to say the least. On 14 November 1993 Violeta Heidi Migoya Calderón, Secretary-General of DIGESEPE, the trade union of workers of the Department of Livestock Services was abducted and not released until 16 November. She had reported instances of corruption in the livestock industry; as a result of this, four businesses included in the list of authorized exporters to the United States were struck off the list.

80. These crimes, which erode the foundations of civil society, generate terror and lead to a breakdown in communication between the various sectors of the community, thus weakening the social fabric in a context of extreme militarization.

4. Threats

81. The Office of the Human Rights Procurator received 159 reports of threats up to 30 November 1993 in comparison with the 156 reports processed in the previous year. On the other hand, during the same period the Human Rights Office of the Archdiocese of Guatemala recorded 354 cases. CIEPRODH recorded

230 cases reported by the press. GAM and the Human Rights Commission of Guatemala reported 203 cases up to 26 October 1993.

82. Almost all the members of the non-governmental community of human rights and social research bodies in Guatemala told the Expert, sometimes producing corroborative documentation, that they have received threats. On occasion, when the threats were made in writing, authorship can be ascribed to the "Movimiento Anticomunista Roberto Lorenzana" (Roberto Lorenzana Anti-Communist Movement), the "Instancia de Depuración y Castigo" (Purge and Punishment Department), the "Movimiento Indígena Revolucionario" (Indian Revolutionary Movement), and other organizations. These are names of which the authorities say they have no knowledge, but the notepaper states them in black and white. It should be pointed out that in most cases the threatened persons are accused of being "communists" or "guerrillas", a false description of the social or human rights work done in both cases. This indicates intolerance of such work - a worrying fact for a democracy.

83. In this connection the Expert saw a document of the "Movimiento Anticomunista Roberto Lorenzana" warning leaders of human rights bodies, - for example Rosalina Tuyuc of CONAVIGUA, Justina Tzoc of CERJ and Nineth Montenegro of GAM, and trade unionists such as Byron Morales, as well as civil servants such as Héctor Rosada - that they should "abandon their procommunist stance and should leave the country within 72 hours or be regarded as military targets"; the document also "decrees" the physical elimination of the President of the Supreme Court of Justice and the court employees involved in the guerrilla movement.

84. In other instances the threats take the form of shadowing of peoples' movements or break-ins, as in the case of the headquarters of the Institute for the Advancement of the Social Sciences of Guatemala (AVANCSO) or the residence of the head of CIEPRODH, Factor Méndez Doninelli. Other persons performing important social work are under similar threats, such as Padre Rosolino Bianchetti of San Gaspar de Chajul, Department of El Quiché.

5. Forced military service

85. Article 135 (g) of the Constitution imposes on Guatemalans the duty of "rendering military and social service, in accordance with the law". The Minister of Defence told the Expert that about 15,000 persons were recruited in each of the two annual drafts and he admitted that, under the present regulations, military service is a problem.

86. In fact, there has been illegal discrimination in the implementation of the current legislation, as a result of which it is usually only Indians who perform the term of military service of two and a half years, and they are recruited arbitrarily by means of levies at any time and in any place. Accordingly, military service has become a means of social control administered as they see fit by the military commissioners who, in turn, are supervised by the Intelligence Department of the Chiefs of Staff.

87. The Office of the Human Rights Procurator recorded 106 reports of improper recruitment up to 30 November 1993. During the same period the Human Rights Office of the Archdiocese of Guatemala considered 39 cases of forced recruitment. Both bodies report the recruitment of minors under the age of 18. For example, on 24 July 1993 Alfredo Seb Coc, aged 16, and Pablo Coc Ba, aged 15, pupils of the Mayan school in the municipality of Estor, Department of Izabal, were recruited and taken to the military unit where they were forced to

do physical exercises and were beaten by the instructors. They were released on 25 July 1993. On 21 September 1993 the Human Rights Procurator reported the release of the minor Alvaro Enrique Madrid Matta who had been illegally recruited in August 1993 and had served in the Playa Grande military zone.

88. In November 1992 the Legislature, with the assistance of the army, drafted a military and social service bill which includes some innovations: it cuts the period of service from 30 to 18 months; it establishes a recruitment board consisting of civilian and military personnel assisted by the Office of the Human Rights Procurator; and it spreads the burden of military service by extending it to secondary and university students who are at present exempt. Exemptions are envisaged in the cases of single sons and married young people or young people living in common-law marriages who have family responsibilities. The bill's processing by the Parliament was halted in June 1993, and the topic is not included in the agreed agenda of 16 November 1993, so that it will not be considered by the present Legislature.

89. Accordingly, the Office of the Human Rights Procurator, the Human Rights Office of the Archdiocese of Guatemala and CONAVIGUA have drafted another bill which makes modifications in the current system in three crucial aspects: the modality of selection, the inclusion of conscientious objection, and the option of social service. In this draft the age for the one-year period of military service is set at 20 years, and recruitment is by the drawing of lots among all males of the corresponding class in the light of the military needs. These bodies told the Expert of their intention to submit the draft to the Congress in January 1994.

90. On 4 and 5 December 1993 the Expert went to several military bases in the Department of El Quiché (Playa Grande, Chajul, Nebaj, Tercer Pueblo). In some of them she was able to visit the facilities and verify the very hard living conditions of the troops, mainly conscripts.

6. Activities of the civilian self-defence patrols (PAC)

91. The civilian self-defence patrols (PAC) or voluntary civil defence committees were created in the early 1980s as a counter-insurgency and intelligence force. Since article 245 of the Constitution provides that "it is an offence to organize and operate armed groups not regulated by the laws of the Republic and their regulations", the PACs were defined in legal texts. According to Decree-Law No. 19-86, the PACs operate under the orders and coordination of the Ministry of Defence and are "organizations of a clearly civilian nature and represent the available mobile and local reserve". The organization, coordination, control and supervision of the PACs by the army is reiterated in article 91 of Decree-Law No. 26-86, the Constitutive Law of Guatemala's army. Decree-Law No. 72-90, which replaces the previous law as the new Constitutive Law of the army, does not contain the article 91 provision although its article 132 does include in the military service regime the "members of the civil defence organization on a service footing".

92. In fact, according to information provided to the Expert by the Ministry of Defence, PAC membership totals 537,000, of which 16,700 are armed, i.e. with weapons provided by the army, while the others carry sticks, machetes, knives, etc. Incidentally, all the members of the Executive told the Expert that the disbanding of the PACs, a measure recommended by the previous Expert Professor Tomuschat, which the present Expert endorses, will happen only when the armed conflict is ended. This assertion is borne out by the recruitment of 3,000 new

patrol members in Santa Rosa in October 1993 because the military authority believed that this was necessary owing to the internal armed conflict.

93. Quite apart from the issues of the legitimacy, appropriateness and usefulness of the PACs as a counter-insurgency and intelligence force, where human rights are concerned they have become groups which generate and/or are responsible for acts of social violence within their communities. Moreover, their unusual civilian-military status has established a kind of limit or barrier to police action, repeating the pattern of events in Chunimá in 1991 which prompted a petition to the Inter-American Commission on Human Rights and the adoption of interim measures by the Inter-American Court of Human Rights.

94. In Joyabaj on 30 April 1993 members of the PACs killed Tomás Lares Cipriano, a member of CERJ and the Peasant Unity Committee (CUC), who had already been subjected to threats. Police protection had been ordered for him but it proved ineffective. Six arrest warrants were issued. The National Police executed only two of them, and one of the detainees was released by the judge as having no case to answer. On 15 June 1993 members of the El Quiché PAC abducted to Amatitlán and killed Francisco Ajma Ixcoy and Juan Patzam Pérez. To date only Juan Acabal Patzam has been arrested. On 3 August 1993, during a demonstration in Colotenango, Huehuetenango, to protest against abuses by the PACs and request their dissolution, Juan Chanay Pablo was killed by PAC members and two other persons were wounded. Only two of the 14 arrest warrants issued were executed. On 24 October 1993 Francisco Soc Chivalán, aged 14, was killed by two members of the San Pedro Jocopilas PACs. At the international level several non-governmental human rights organizations have submitted a petition to the Inter-American Commission on Human Rights stating that the PAC system authorized, approved and permitted by the Government of Guatemala constitutes a violation of the rights protected by the American Convention on Human Rights.

95. In formal terms the PACs are clearly constituted on the basis of voluntary membership. However, there have been many reports of the use of coercion to force peasants to join the PACs, in open violation of article 34 of the Constitution which embodies the freedom of association and of article 22 of the International Covenant on Civil and Political Rights and article 16 of the American Convention on Human Rights. In this connection, up to 30 November 1993 the Office of the Human Rights Procurator received 37 reports of violation of the freedom of association by the PACs as against 23 reports in 1992.

96. The members of PACs have to patrol on two days a week, when they cannot perform their usual work; and if they are unable to patrol for any reason they must make a payment in respect of the unworked shift. This situation violates the right to work embodied in article 101 of the Constitution and could be regarded as a kind of forced labour.

97. It is difficult to understand how the PACs could exist except in a context in which people take justice into their own hands. They really do represent a parallel power which summarily decides matters of life and death and whether men, women and children should continue to live in their village or leave. In a context of democratic transition which includes a peace process as an essential component, the continued existence of the PACs must be regarded as a considerable obstacle to democratic process. If the tragedy of 2 December 1990 in Santiago Atitlán taught any lesson, it was to demonstrate that civil society could find forms of organization which do not require the presence of the army or of the PACs. During her visit to this district on 1 December 1993 the Expert was able to see in person the positive results of the system of social organization.

7. The prison system

98. When the Government of President de León Carpio came to power the management staff of the prison system was replaced, and the present director is a civilian. There was also a "purge" of prison staff when it was found that 25 to 30 per cent of them had histories of serious crime. The Government authorities acknowledge that the service is in a poor condition. The shortcomings begin at the legal level, for there exist neither an organic law or regulations concerning the prison system.

99. On 2 December 1993 the Expert visited the Pavón-Fraijanes rehabilitation farm which houses 524 of its own inmates and 11 from another prison. Of these, 497 have received sentences, not necessarily confirmed, and 27 are awaiting trial. The inmates live in units each housing 11 to 30 persons. There is no established work regime although some 80 per cent of the prisoners do perform some kind of work. The establishment does have workshops in which some of the inmates produce goods which are sold outside. The Expert visited a workshop making felt dolls run by a prisoner of Korean origin in which about five other persons also worked. According to information provided by the Governor of the institution, there is no established criterion for allocation of the workshops, nor could he say whether the inmates who worked received any kind of payment.

100. The medical service has a full-time nurse and a doctor who attends for a few hours each day. There is no regular dental service, and urgent cases have to be taken to the San Juan de Dios hospital. Where education is concerned, the Expert was told about a literacy project run by a teacher whom she was unable to meet. There is no food policy, but the person in charge of the farm shop decides which goods shall be stocked and which the prisoners working in the kitchen can use for preparing the daily meals. There are difficulties in controlling effectively the smuggling-in of drugs, mainly marijuana, or the use by prisoners of glues and other substances used in the shoe workshop.

101. The farm has a 71-strong prison staff working in shifts and 55 administrative personnel. According to the Governor, the staffing strength is insufficient for the number of prisoners, but nevertheless the situation has remained calm in recent times. The Expert interviewed some of the prisoners in private and was able to check their conditions of personal hygiene, diet and physical integrity.

102. There is an obvious and acknowledged lack of security in prisons, for several convicts have died at this farm and in other institutions in circumstances which have not been properly explained.

8. Freedom of association

103. On 6 October 1983 Government Decision No. 515-93 adopted by the Ministry of the Interior stipulated that this Ministry was responsible for "processing and approval of the statutes and recognition of the juridical personality of non-profit associations and foundations" and that such organizations should be inspected and monitored only for the purpose of ensuring compliance with the law and the statutory regulations. The Ministry was also made responsible for keeping a register of such associations and foundations. The preamble to the Decision mentions the recommendation made by the previous independent Expert Professor Tomuschat in this connection.

104. This provision, the practical results of which cannot yet be assessed, is designed to accelerate the exercise of the freedom of association whose legal

recognition has been held up for many years in Guatemala. In any event, it should be noted that the non-governmental organization International Peace Brigades initiated the relevant procedure several years ago but has still not been recognized.

105. Another similar measure is Government Decision No. 639-93 of 2 November 1993 which accelerates the procedure for recognition of the juridical personality, approval of the statutes and registration of trade union organizations. According to the information provided by the Minister of Labour, between 1 July and 30 November 1993 46 trade unions were approved by ministerial resolution.

9. Freedom of expression

106. During the events of May 1993 the press was subjected to de facto censorship which was lifted when the institutional crisis had passed. Subsequently, on 28 and 29 October 1993, journalists from various publications (La Hora, El Gráfico, Prensa Libre, Siglo XXI) and broadcasting media (Tele-Prensa) were attacked by "a crowd of people who said that they were from shanty towns and that they were demonstrating for the resignation of members of the Congress". In a resolution of 9 November 1993 the Human Rights Procurator declared that the journalists who had been attacked had suffered violation of the rights to security, physical integrity, and freedom of thought and free access to information, and that the police officers and their superiors who had been on the spot were responsible by omission for these violations, and he stated that the persons identified as the assumed aggressors should be prosecuted. Accordingly, he recommended that the Minister of the Interior and the Director of the National Police should carry out the necessary investigations and try to improve the training of the police in order to secure greater efficiency in the discharge of their functions within the framework of respect for human rights.

10. Freedom of correspondence and communication

107. Reports and allegations described in the report submitted to the Commission on Human Rights in 1993 by Professor Tomuschat indicated the involvement of the Presidential General Staff (EMP) in the violation of the right to correspondence by setting up an office in the headquarters of the Post Office and the involvement of the Intelligence Department of the Chiefs of Staff in the tapping of telephones. Professor Tomuschat recommended that the authorities should submit a detailed report on the matter to the Parliament.

108. In addition, in a resolution of 13 April 1993 the Human Rights Procurator stated that the EMP was responsible for setting up and operating the surveillance office in the headquarters of the Post Office. However, in the interviews which the Expert had with the heads of the two organs of the Executive mentioned above the facts were categorically denied. No report was submitted to the Legislature.

109. In this connection, and quite apart from the widespread belief among the people that most telephones are tapped, it should be noted that during her visit to Guatemala the Expert was told that a few days earlier the commander of the Nebaj military base had removed the list of calls made from the public telephone in the zone.

11. Right to trial and due legal process

110. Guatemala's system for the administration of justice has still not been made efficient. The conduct of cases does not result in effective sentences which would indicate a change of direction against impunity. Without descending to unfair generalizations, it is important to emphasize that in its upper levels the Judiciary is very highly politicized, owing probably to the current modalities of election (which have been amended by the constitutional reform) and to the purging of personnel which took place in 1993.

111. In any event, the defects in the justice service only help to consolidate impunity and leave citizens defenceless against the violation of their rights. The disrepute of the justice system in the eyes of the people is a serious matter which the Government cannot disregard. The entry into force of a new Code of Criminal Procedure, introducing the oral system and assigning a leading role to the Ministry of the Interior, which had been planned for the end of 1993, is to be deferred until June 1994 by means of a bill which appears in the legislative agenda agreed on 16 November 1993. The Supreme Court of Justice claims that it has insufficient funds to implement the Code and to date it has merely organized training courses for judges and printed a manual concerning the new Code drafted by its President, José Rodil Peralta.

112. The judicial investigation and report concerning moral responsibility for crimes have still not happened in Guatemala. Although it is true that Noel de Jesús Beteta Alvarez, an army specialist, is serving a sentence of 30 years imprisonment for being criminally responsible for the murder of the anthropologist Myrna Mack, it is equally true that the courts have rejected the petition of the person who brought the charge, Helen Mack, that the moral perpetrators should be prosecuted, and the petition has gone to appeal. On 11 October 1993 the convicts Francisco Solbay Santay and Tiburcio Hernández Hernández, convicted of the murder of Michael Devine, stated in public that they had information about death squads and secret graveyards, but two days later they retracted their statements. This information was also confirmed to the press by their cell mate, Jorge Guillermo Lemus, who said that they had told him about these matters. The Expert could obtain no assurance that it had been decided to institute proceedings concerning these serious reports so that the relevant investigations could be carried out.

113. On 24 June 1993 the Constitutionality Court decided to reject the motion of unconstitutionality made with respect to the Civil Code in the appeal lodged by the then acting Deputy Procurator, María Eugenia de Sierra, with regard to the regulations which entail discrimination against women. Disagreeing with the appellant and with the Ministry of the Interior, the Court based its decision on the "higher" nature of the institution of matrimony, on the free consent of the parties contracting marriage and on the fact that the Legislature sometimes needed to make choices. The decision did not fail to mention that "the Constitution entrusts to our supervision the international treaties and agreements approved and ratified by Guatemala" - in this case the Convention of the Elimination of All Forms of Discrimination Against Women, which has been in force since 1982 - but it failed to point out that in accordance with article 47 of the Convention such treaties take precedence over internal law and that they should therefore be implemented.

B. Economic, social and cultural rights

114. One important factor in the study of the situation of human rights in Guatemala is the lack of regular statistics on reports concerning economic,

social and cultural rights by the non-governmental human rights organizations in the country. Although such organizations devote a part of their reports to such rights, this lack seems to indicate that the awareness of human rights in the country is still focused on civil and political ones.

1. Trade union rights

115. The Office of the Human Rights Procurator recorded 33 reports of violation of trade union rights up to 30 November 1993 as against 44 in 1992. Generally speaking, trade union activities have a difficult time in Guatemala, despite the constitutional protection of the law and the ratification by Guatemala of the ILO Conventions and other instruments.

116. In addition to the cases in which trade union leaders have been victims of enforced disappearance and torture, there are other cases in which the formation of trade union organizations has been impeded by harassment. For example, the Expert was told about the case of 42 farm workers who were deprived of their jobs at the Santa Anita estate (San Miguel de Pochuta, Chimaltenango) and of another two workers at the El Baúl estate (Santa Lucía) in order to deter the formation of trade unions. The first of these cases was brought to the attention of the ILO Committee on Freedom of Association through the ILO regional office in San José, Costa Rica. The official responsible for labour matters in the Executive indicated to the Expert his concern about the negative impact of these incidents on trade union activity.

117. The guarantees of the security of job tenure of trade union representatives used to be encumbered with a lengthy procedure, but the current administrators in the Ministry of Labour have cut this to a two-hour process.

2. Right to health

118. The Office of the Human Rights Procurator received 53 reports of violations of the right to health up to 30 November 1993 as against 30 in 1992. In addition to the indicators of the current status of this right given in chapter II D (The widespread extreme poverty), mention must be made of the resolution of 20 September 1993 of the Human Rights Procurator which declared that the health system, basically the hospitals, was in a state of crisis.

119. According to the information provided by the Deputy Health Minister, 60 per cent of the Government's health budget is allocated to the hospitals; this means essentially the two big hospitals in Guatemala City, San Juan de Dios and Roosevelt, which take up 40 per cent of the hospital budget. The health policy of the Government of President de León Carpio has shifted its emphasis from curative to preventive medicine, and for this purpose it is decentralizing functions and involving the municipal governments. A cholera treatment plan to be implemented from January 1994 was offered as an example of this activity.

120. As was stated in an earlier paragraph, access to safe water is very limited in Guatemala. In fact, the supervision of this vital area is fragmented among several State organs, including the Ministry of Health. Nevertheless, a Department of Water Resources was recently created, but it is not yet possible to give an opinion about its activities and plans.

121. The Government intends to carry out a vaccination campaign in accordance with international standards twice a year. However, these campaigns will not cover the whole of the Guatemalan people. It must be reiterated here that the Victoria 20 de Enero community has a Médicos del Mundo team and that the

Communities in Resistance (CPR) receive no support from the State. As stated earlier, the Expert was able to visit in person the recently established Médecins sans frontières camp in the La Sierra CPR. It should also be remembered in this connection that a vaccination plan for the people living in the CPRs was agreed with the International Committee of the Red Cross but could not be implemented. It would be useful to devise suitable means of restarting this project so that some minimum impact of the health plans may be felt in these communities.

122. Guatemala has a National Commission on AIDS (CONASIDA) which is carrying out a health education campaign to combat AIDS. The expert was told about the cultural obstacles which have to be overcome in this campaign, for sex education is not socially acceptable. Posters advising abstinence from sex as a method of prevention illustrate this situation.

3. Right to education and culture

123. Up to 30 November 1993 the Office of the Human Rights Procurator received 53 reports of violations of this right in comparison with 22 in 1992. The holder of the education portfolio in the Executive, the only member of the Executive of Mayan descent, explained to the Expert the Government's plans in this area: closer involvement of parents with the schools (receiving advice from teachers, participating in school committees, schools for parents); greater emphasis on bilingual education; expansion of the State's advisory capacity for education; extramural education programmes; and promotion of experimental schools. The public schools also provide a daily ration of school galleta (bread with a vitamin supplement) and incaparina (milk substitute with a vitamin supplement).

124. The Constitution embodies the right to education in very specific terms (arts. 71-81), imposing on the State a series of concrete obligations, including the organization and promotion of literacy (art. 75). Nevertheless, 43 per cent of the population is illiterate, and this figure rises to 90 per cent for women in some departments, according to the report submitted by the Human Rights Commission of Guatemala to the United Nations General Assembly at its forty-eighth session. In this connection the Minister of Education informed the Expert that illiteracy was being tackled in collaboration with community organizations and that the intention is to cater for 1,000 adults a year. For 1994 the Ministry of Education intends to build 700 classrooms.

125. Elsewhere in this report it is pointed out that the bilingual education at present provided by the State does not meet the needs and that it leads to very serious acculturation.

126. In collaboration with the University of San Carlos of Guatemala the Ministry of Education has established a programme of workshops for secondary students on the uses of freedom in a democracy.

4. The land problem

127. The unequal distribution of land is an age-old problem in Guatemala. The latifundios stand in sharp contrast with the minifundios, which are too small for adequate working and yields. Furthermore, 70 per cent of the indigenous population has no workable land. The land occupies a fundamental place in indigenous culture; in fact, the crop-growing cycles govern the calendar of the indigenous communities.

128. These problems have been exacerbated by the decision of the refugees in Mexico to return to their country and to the decision of some internally displaced persons to go back to their places of origin. One positive factor in this area is the participation of the National Fund for Peace (FONAPAZ) in the negotiations concerning the land of the Ixcán Grande cooperative which is unlawfully occupied by 462 families. The return of refugees to this area prompted a search for a fair solution, which was to acquire three estates on which to resettle the unlawful occupants and the payment of compensation, thus opening the way for the returnees to reoccupy their land. A similar situation exists with regard to land located in Santa María Tzejá, Ixcán, unlawfully occupied for the past 10 years. The return of the refugees holding title to this land is planned for 24 January 1994, and the problem is still awaiting solution.

129. Another problem arose in connection with the occupation of privately owned land in Los Cimientos village, municipality of San Gaspar de Chajul, by private individuals holding no title to the land and by an army base. The Human Rights Procurator declared (resolution of 24 November 1993) that, once the title of the claimants to the land was established, all legal means must be used to end the occupation of the land by private individuals, and he recommended that the army, which had stated that it did not hold it for certain that it was occupying the claimants' land, should take the necessary steps to legalize its ownership of the real estate on which the base was located or, if the land was proved to belong to the claimants, to move the base elsewhere. Prior to this decision, on 24 August 1993, a petition had been submitted to the Inter-American Commission on Human Rights.

130. The supplementary Law on Land Titles in force in Guatemala disregards the indigenous tradition of transferring ownership of land by legacy without completing all the registration formalities. Accordingly, once a few legal points are dealt with, the age-old property passes legally to new owners. Nor does the law take any account of the collective ownership of land which is a feature of indigenous communities.

131. On this point President de León Carpio informed the Expert of the existence of a plan to grant 17,000 property titles to landless peasants which is now being implemented. He also said that the Government intended to legalize imperfect titles held by peasants.

C. Internally displaced persons, refugees and returnees

(a) Communities in Resistance (CPR)

132. In the early 1980s many Guatemalans abandoned their homes and land to flee the violence. Some of them - Indians of the Quiché, Cakchiquel, Ixil, Jacalteca, Mam, Kanjobal and Chuj races - hid in the Ixcán forest and others in the La Sierra mountains (in the vicinity of Triángulo Ixil) in the Department of El Quiché and set up the CPRs in a geographically hostile environment and in very hard, almost subhuman, living conditions. The inhabitants of the CPRs devised forms of organization which have enabled them to survive for 12 years.

133. Assumed by the military to be collaborating with the guerrillas, they were subjected to severe harassment by the army and the PACs which, although it has diminished in intensity, has not ended. This harassment takes the form of the creation of a hostile atmosphere in the neighbouring villages to which the members of the CPRs go to sell, buy or barter goods. At the same time, anyone who facilitates meetings between members of the CPRs and their relatives or

gives them help and shelter is subjected to threats, as has happened to Padre Rosalino Bianchetti, the parish priest of Chajul, the members of the Chajul association, and others. In addition, the shelling of the Ixcán CPR by the army increased the number of people fleeing to Mexico in April 1993. These facts were set out in a petition submitted to the Inter-American Commission on Human Rights.

134. The decision of the CPRs to reincorporate themselves fully in the national community is irreversible; to this end they began a dialogue with the Government which is currently suspended. Their claims include reaffirmation of their recognition as non-belligerent civilian communities, the granting of guarantees of security, respect for their decision not to join the PACs, and full respect for their human rights. Their undertaking is not an easy one and has already come under attack. On 29 September 1993 the army Department of Information and Communication published a paid advertisement in which it accused the CPRs of being "part of a political-military structure set up in 1982 by the underground group Ejército Guerrillero de los Pobres (EGP)". This public stance constitutes interference in matters under civil authority and an assumption of the guilt of the members of the CPRs which is not for the army to decide.

135. The Expert visited the La Sierra CPR on 4 December and Los Angeles village in the Ixcán CPR on 5 December 1993. She had talks with representatives of the communities and held a discussion with the inhabitants. In addition to explaining their background and claims, the CPR representatives indicated to her their requests, which include permanent attention and observation by the United Nations and the presence of the Human Rights Procurator in the form of a local office.

(b) Internally displaced persons

136. Most of Guatemala's internally displaced persons are inhabitants of the rural areas affected by the violence who have sought refuge in the towns, mainly the capital.

137. Their main problem concerns the legalization of the places designated for their housing. In this connection the National Council of Displaced Persons of Guatemala (CONDEG) and the Ad Hoc Committee for Aid to Returnees (CEAR) have accepted the mediation of the Deputy Human Rights Procurator, Augusto Willemsen Díaz, in an attempt to solve the problems of the "Mario Antonio Díaz" settlement.

(c) Refugees

138. The settlements of Guatemalan refugees in Mexico are concentrated in the States of Chiapas, Quintana Roo and Campeche. They have formed Standing Committees of Representatives of Guatemalan Refugees in Mexico (CCPP). They have the assistance of UNHCR and the Mexican Commission for Assistance to Refugees (COMAR). In the Chiapas camps UNHCR and COMAR operate production projects. The living conditions there are more severe than in Campeche and Quintana Roo, where the refugees have devised an effective form of organization. In this connection mention must be made of the work done with and by women through the Mamá Maquín organization.

139. At present the Guatemalan refugees are provided with a non-immigrant residence permit (FM3 - immigration form 3) which authorizes them to work in their camps and to request from the immigration authorities a pass to enable

them to move around in Mexico. This documentation is being replaced by the immigration form for refugees (FMR), the practical scope of which has not yet been verified.

140. The decision of the Guatemalan refugees in Mexico to return to their country is also irreversible. At the time of writing this report, 274 families (1,362 people) had returned to their final destination in Pueblo Nuevo (the new name of Tercer Pueblo) following a forced stay in Veracruz pending the solution of the problems of land and mine clearance. The Guatemalan population of Chiapas, Campeche and Quintana Roo is organized into 22 returnee units under the supervision of the north-west branch of the CCPPs which include 3,300 families: members of cooperatives, plot holders of the National Agricultural Processing Institute (INTA), members of communes and landless groups.

(d) Returnees

141. The first collective return of Guatemalan refugees from Mexico took place on 20 January 1993. They settled at Polígono Catorce, since renamed Victoria 20 de Enero. On 5 December 1993 the expert went there to meet with the inhabitants, listen to their comments and requests, and form her own picture of the situation.

142. The community is building housing, mainly simple wooden shelters, and communal facilities for education, health and relaxation. The Office of the Human Rights Procurator is represented there by a coordination adviser, a mobile assistant and two education workers. The UNHCR office in Ixcán is gradually being run down in view of the settlement's new legal status. The humanitarian non-governmental organization Médicos del Mundo has six professionals stationed there.

143. CEAR is taking care of the documentation (65 per cent of the people have already been dealt with although there are errors in the registers which have to be corrected) and is responsible for the distribution of the food ration, which at present is not being delivered on time. The food distributed by CEAR is provided by the World Food Programme. In addition, CARITAS and CONFREGUA (Confederation of Religious Orders of Guatemala) are providing food in addition to the daily rations. This picture shows a large international presence but the almost total absence of Guatemalan civil authority in the place.

144. The returnees receive primary health care and they are suffering from the diseases and infections to be expected in the Ixcán context (amoebiasis, diarrhoeas, malaria); the malnutrition problems have prompted the establishment of a programme for children under five, pregnant women and nursing mothers; the diet lacks animal protein and milk. Where sanitation is concerned, there is a plan for the installation of 250 latrines, one for each family which is going to stay permanently. However, the current overpopulation of Victoria 20 de Enero - there are 560 families instead of the planned 250 - due to the lack of land for the extra 310 has generated food and health problems.

145. Thirty-three education workers, of whom only three have the approved basic qualification, are in charge of preprimary and primary education, which is provided only in Spanish and without the minimum necessary teaching materials. Farming work was delayed by the existence of marijuana fields and the assumed existence of explosives in the area; both problems were overcome.

146. The arrival of the first contingent of refugees prompted the establishment on 14 January 1993 of the Verification Office consisting of the Human Rights

Procurator, a representative of the Episcopal Conference and the Expert's representative, Mr. Hugo Lorenzo.

147. There are crucial outstanding problems affecting the contingent of refugees currently in Veracruz on their way to Pueblo Nuevo. Although it is true that the Government welcomed the return and that the Ministry of Defence gave assurances that the Tercer Pueblo military base was going to be transferred to a "prudent distance" away from the centre of the settlement, which it currently occupies, it is equally true that the Ministry stated that the area was a red-alert zone, referring to the frequent clashes with units of the Ejército Guatelmateco de los Pobres (EGP), an element of the URNG. It also stated that the fields had been mined by the URNG. However, the URNG, in a statement on 2 December 1993, categorically denied having mined the area. In any event, an international humanitarian mission to survey the region with a view to clearing any mines may take place at the end of December 1993 thanks to the good offices of UNHCR.

148. Another contingent of refugees consisting of 201 families (1,005 people) is expected to arrive in the Chaculá area (Nentón, Huehuetenango) on 10 January 1994. On 24 January 1994 76 families (413 people) expect to arrive at Santa María Tzejá. These arrivals and the other ones planned are, in the Expert's view, the most positive features of the human rights situation in Guatemala. They probably do not represent concrete advances in the situation of each human right in the country but they do indicate that a change is taking place in Guatemalan society, of which the returns are only the first step.

IV. CONCLUSIONS AND RECOMMENDATIONS

The Office of the Human Rights Procurator

149. This institution has kept up its rate of work in 1993, as is apparent from all the information provided earlier, notwithstanding the change in its directorship. During the period immediately prior to the assumption of office by Mr. Jorge Mario García Laguardia, the members of the investigation team who maintained links of some kind with the army were removed from their posts. However, as of December 1993 they had not been replaced by civilian experts. In addition, the office of Deputy Procurator, left vacant as a result of the resignation of Ms. Maria Eugenia de Sierra, has not been filled. On the other hand, the appointment of Mr. Augusto Willemsem Díaz as Deputy Procurator was confirmed. Because of the vacancies, the Office's action is in danger of slowing down or becoming more bureaucratic, and so they should be filled.

150. Although the task of the Procurator's Office is relevant and fruitful, given the development of the human rights situation in Guatemala, it would appear important to reinforce the existing branches of the Office and set up new branches in areas of conflict and in the new settlements. The Office's work would also be facilitated by the adoption of a legal provision giving it authority to take legal proceedings.

Policy of the Executive in the area of human rights

151. Although the legal provisions - both domestic and international - in force in Guatemala afford adequate protection of human rights, it is at the same time apparent in practice that events are frequently at variance with the law. In this connection, the explicit adoption, for the benefit of the Guatemalan community and the international community, of a policy of respect for human

rights that is translated into an undertaking to bring events into line with the law in force in Guatemala is both appropriate and necessary.

152. Guatemala's foreign policy must also reflect a clear and unequivocal undertaking to respect human rights. This must be expressed in the ratification of international treaties regulating vital aspects of everyday life in Guatemala, such as ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and the Optional Protocols to the International Covenant on Civil and Political Rights relating to the consideration of individual complaints by the Human Rights Committee and to the abolition of the death penalty. Recognition should also be given to the competence of the Committee against Torture to receive individual complaints (art. 22) and the competence of the Committee on the Elimination of Racial Discrimination (art. 14) for the same purpose.

153. In the democratic transition, the consolidation of civilian authority and its organization in such a way as to make an effective response to the demands of society are indispensable. In the Guatemalan context, the progress and consolidation of authority must be effected throughout the national territory. In this connection, measures must be adopted to reinforce the departmental authorities (governors) and municipal authorities (mayors), in order to ensure that they are genuinely representative of their communities, and their administration must be supported.

154. The setting-up of the Presidential Commission for Coordinating Executive Policy in the field of Human Rights (COPREDEH) was a laudable initiative, taken in the light of the recommendations of the Expert, Mr. Tomuschat, but its effectiveness has yet to be demonstrated. In this connection, COPREDEH should be the body responsible for coordinating information, de facto and de jure, necessary in order to prepare the periodic reports provided for in the treaties to which Guatemala is a party and to respond to the requirements of the special procedures of the United Nations Commission on Human Rights and to the requests of the monitoring bodies established in the treaties. It should also be responsible for taking the necessary steps to promote the ratification of the international treaties on the subject and the revision and possible adoption of national legislation consistent with the international commitments undertaken by Guatemala.

The military

155. The subordination of the military to political authority is provided for in the provisions of the Constitution. This is implicit in the essence and dynamics of democracy. It also implies setting limits on the task to be performed by the military by comparison with the situation which existed until the restoration of democracy, and a definition of objectives in the light of the Government's overall policy. In this connection, non-interference by the military in the national decision-making process and in political affairs is necessary both as a value and as a principle. Furthermore, in non-military affairs army personnel must conform to the rules of responsibility of the civilian community. There is accordingly an urgent need for a review of the provisions of the Code of Military Justice in order to limit military jurisdiction to cases relating to military offences. Action in both these areas will restrict military activity to its allotted area and will at the same time enable the military to recover the confidence which it has lost among some of the people.

156. Mr. Tomuschat's report draws attention to the advisability of reformulating the curricula and training courses of members of the armed forces and security forces, in conformity with the provisions of the Constitution and the international human rights commitments which Guatemala has undertaken. In this connection, in addition to the necessary knowledge of the provisions of the treaties in force in Guatemala, it is important to disseminate the content of the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) and 2076 (LXII), and the Declaration on the Protection of All Persons from Enforced Disappearance (General Assembly resolution 47/133).

157. The headway made in the peace process and the consolidation of democracy must logically result in a reduction in the need for military personnel. In this connection, and quite apart from the new Military Service Bill awaiting approval, recruitment plans, out of considerations of expediency and advisability, should gradually provide for a reduction in the number of citizens under arms. Among various alternatives, the idea of setting a maximum number of recruits per period on the basis of a public lottery, for example, would guarantee the military authorities a regular intake of personnel and would at the same time release manpower for national economic and social reconstruction.

158. Similarly, bearing in mind that the institution of "military commissioner" is accounted for by the need for liaison with civilian society for the purposes of recruitment for military service, the centralization of this activity by the central military authorities and delegation of responsibility for it to a career officer in each military district should lead to the elimination of the institution. Such a course would reduce the number of persons legally under arms and would help to create an atmosphere of trust among the general public who have, in many cases, seen the military commissioner as a uniformed officer acting against its interests by exceeding his powers.

159. The army must also perform a social function vis-à-vis its recruits. Apart from providing decent accommodation and food and adequate medical care in the event of sickness or accident, it must execute vaccination campaigns and organize literacy training for recruits who need it.

The militarization of society

160. The frequent presence of the military among the country's political leaders and the continuation of internal armed conflict for 33 years have certainly contributed to the high degree of militarization of Guatemalan society. At the outset of a peace process, and through a process of democratic transition aiming at progress towards consolidation, this presence of the military within society must decrease. In this connection an intelligence service subordinate to the State and hence civilian in character, must be set up to perform the functions of collecting and processing information, as required by democracy. At the present time, there is in Guatemala only an Intelligence Department subordinate to the Chiefs of Staff; pending the establishment of a civilian service, this Department should restrict its activities to the purely military sphere and external security matters, and hand over its files to the new service once it has been set up.

161. The Presidential General Staff (Estado Mayor Presidencial - EMP), which has been reduced to 730 members according to official information, and is responsible for the security of the President and his family and for providing the necessary logistical support for official journeys, is an institution which

should be appreciably demilitarized. In this connection, the authorities informed the Expert of their frank disagreement with the view expressed by Mr. Tomuschat that the EMP should be reorganized as a cabinet of civilian advisers to the President, since a cabinet of this kind exists in another department of the Government. It would be advisable for presidential security to be entrusted to serving army officers, such as the Guard of Honour, for example, and for assistance and logistical services to be reserved for specially trained civilian personnel.

162. On the question of the civilian self-defence patrols (PACs), the Expert agrees with Mr. Tomuschat's recommendation that they should be disbanded. Until such time as the necessary legislative and administrative measures have been taken to this end, the Government must undertake not to set up new PAC posts, and must order the army to take control of the existing PACs and to disarm the PACs in those areas in which the Office of the Human Rights Procurator and the Judiciary have found that abuses have been committed (Colotenango, Joyabaj, San Pedro Jocopilas). The PACs must also be abolished in the areas in which there is no internal armed conflict, and a citizen's wish not to join such a patrol must be respected (Communities in Resistance (CPRs), communities of returnees, private individuals). Furthermore, verification of the voluntary nature of membership of the PACs must be entrusted to the Human Rights Procurator, who should establish permanent machinery for periodic verification.

163. The State must strengthen and reorganize its machinery for the registration and control of the possession and bearing of firearms. To this end, legislation must impose practical limitations (reducing permitted calibres) and personal limitations (forbidding any person charged with using firearms from exercising the right to bear arms). To this end, a national firearms register must be set up under the responsibility of the Ministry of the Interior.

Police system

164. The demilitarization of the National Police, as recommended by Mr. Tomuschat, took place in August 1993. Further action must be taken in this area with the merger of the National Police and the Guardia de Hacienda into a single force, provided for in a bill currently before Parliament, and the restriction of the Mobile Military Police to police functions in the military sector and functions involving military personnel.

165. Measures must be taken to increase the dignity of police work and to achieve greater professionalism. This will require more and better human resources: the present figure of 11,976 police officers must be increased, rigorous qualifications in terms of ability and education must be established for entry into the police, through increased material resources decent wages must be paid so as to avert the risk of corruption, and police officers must be given adequate facilities and medical and social benefits in conformity with the job they do. In the context of its internal anti-corruption programme, the Office of Professional Responsibility had to investigate 10 per cent of police officers between August and November 1993; this programme should be reinforced and the necessary corrective measures found.

166. In accordance with a recommendation by Mr. Tomuschat, an Office of Investigation Specializing in Cases of Violation of Human Rights has been established. This Office, together with the Disappeared Persons Section, is directly subordinate to the National Director. On 6 December 1993 the official

responsible for these areas of activity was appointed. It will be important in a few months' time to evaluate the working methods and achievements of this Office.

Administration of justice

167. There must be a thorough review of the structural machinery of the administration of justice in order to eliminate corruption and the high degree of politicization prevailing in this area. The election of judges should take place by means of transparent procedures which ensure the appointment of the most suitable, honest and qualified persons. To this end, the judicial career must be established and appropriate regulations laid down.

168. Also with the aim of improving the efficiency of the Judiciary, it is essential that the entry into force of the Code of Criminal Procedure, which has already been approved, should not be delayed; this Code provides, for the first time, for the oral and public nature of proceedings, in accordance with the international commitments undertaken by Guatemala in this area. This new procedure will be decisive in changing the judicial mentality and eliminating pretexts for impunity.

169. In this context, the Public Prosecutor's Office will have a leading role to play in the investigation of crime and in the instIgation of proceedings. Its responsibility can only be fully discharged if criminal action is taken against every person suspected of having responsibility - whether direct or vicarious - for the acts in question. It is also necessary to keep up the momentum of ex officio action on all occasions when this course is taken. To this end it will be necessary to increase the number of public prosecutors acting all over the country.

170. The indigenous majority must enjoy all the guarantees of due process, which includes interpretation services, and their customs must be taken into account in the enforcement of substantive law.

171. The prison service must have the benefit of an adequate organization act which includes the provisions of the Code of Conduct for Law Enforcement Officials and legislation which incorporates the content of the Standard Minimum Rules for the Treatment of Prisoners. The authorities must effectively guarantee the life and physical integrity of prisoners. The deprivation of liberty of convicted offenders must aim at their reintegration into society, and not at mere incarceration.

172. To sum up, what is needed is independent and impartial administration of justice that serves justice effectively through clear and consistent processes, as a means of ending impunity.

Civil and political rights

173. Acts regarded internationally as serious violations of human rights - enforced or involuntary disappearances, summary or extrajudicial executions, torture - are still taking place in Guatemala and no appropriate political or legal measures have been adopted. Putting an end to them depends on the political will, and penalizing them depends on the legal will, to do so. This is all possible in a democratic setting. It is enough simply to take the decision.

174. Proper and exhaustive investigations should be conducted into any human rights violation or complaint and they should lead to court proceedings to determine the guilty party. In this connection, the new National Police office, the Public Prosecutor's Office and the Judiciary have an important role to play. It is for the State, fulfilling its duty to engage in preventive activities, to remove any obstacles to the effective enjoyment and exercise of the rights of the people.

175. The State must proceed to clear up past complaints. Identifying clandestine burial grounds, for example, affords just such an opportunity which cannot be lawfully circumvented. Such elucidation is a right of Guatemalan society as a whole, for only with an awareness of the past will it be possible to move into a healthy democratic present and future. Various measures for compensation must be adopted, including exemption from military service for descendants or collaterals of disappeared persons, victims of summary executions or torture, and scholarships for the children of disappeared persons and victims of extrajudicial executions.

176. The State must foster a culture of respect for human rights in which one component is formal education at all levels, including extracurricular education, in human rights. Only by cultural ways and means will it be possible for the mistaken identification of the human rights endeavour with subversion and discriminatory conduct to be eliminated.

177. The principle of equality set out in article 4 of the Constitution and in the human rights treaties in force in Guatemala is not specifically applied in regard to women, who are traditionally disregarded, and the indigenous communities, which, as such, are ignored. Government practice and the law must be in accord with the provisions of the Constitution and human rights treaties.

Economic, social and cultural rights

178. The gradual demilitarization of society and the headway in the peace process must lead to the release of human and material resources for development. The recognition of the extreme poverty of most of the population in the Government Plan is a positive factor. However, this should be supplemented by the adoption of specific measures intended to overcome destitution and bring back decent living conditions.

179. The health and education systems must be reviewed and redesigned in the light of current needs and with the aim of raising the population's living standards. The indigenous communities, women (especially widows), children (especially street children) and the Communities in Resistance (CPRs) must be regarded as vulnerable groups. In this connection, programmes must be devised to help the widows of victims of repression and their young children, and to assist street children.

180. Labour legislation must maintain the international standards adopted by ILO, several of whose conventions have been ratified by Guatemala. In addition, the Minister of Labour must find suitable means to penalize companies which unlawfully get round the compulsory social security system. The necessary checks must be made to ensure strict observance of the relevant conventions ratified by Guatemala and ratification of other instruments should be encouraged, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990).

181. In this connection, the adoption of measures to help maintain a healthy environment should be considered. More particularly, steps must be taken to find the requisite funds to repair the damage caused to the road infrastructure and to offset the effects of the oilspill, both of them acts that have been attributed to URNG. Moreover, immediate steps must be taken to clear away landmines from areas with a civilian population.

Indigenous communities

182. It is urgent to enact the necessary laws to apply the rules of the Constitution relating to indigenous communities (art. 70). Similarly, the law must consider measures of positive or reverse discrimination, so that the principle of equality will gradually become a reality. Furthermore, ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries should be approved and ratified.

183. Concrete steps should be taken for practical preservation of the cultural heritage of the indigenous communities. In this respect, a bilingual education plan should be executed throughout the country and the school year should be brought into line with the farming year.

184. The exclusion of the indigenous communities from participation in the country's political life must be remedied with mechanisms to open up political room for appropriate participation by genuine representatives of these communities in Congress and in other executive positions.

Internally displaced person, refugees and returnees

185. To strengthen a peaceful and democratic society, solving the problematic situation of the internally displaced persons is something that needs to be tackled firmly. In this connection, suitable mechanisms must be worked out to solve these persons' problems in regard to housing, employment and official papers.

186. As far as the CPRs are concerned, dialogue must be resumed on an urgent basis to secure full recognition for them as part of the non-combatant civilian population and ensure social reintegration. Accordingly, the harassment to which they are subjected must be brought to a halt and the civilian authorities must shoulder their responsibilities.

187. The inexorable decision of the majority of Guatemalan refugees to return to their country requires from the Government scrupulous observance of the agreements of 8 October 1992 and related accords. In this connection, land problems must be solved before the refugees arrive, so as to avoid provisional settlements and to promote immediate relocation of the returnees to their places of origin.

188. The State must play its part among the returnee communities, taking care of health, education and the infrastructure, matters which are receiving assistance from intergovernmental and international non-governmental organizations at the present time.

Legislature

189. Congress should proceed to review current legislation in the light of Guatemala's international human rights commitments and should not place obstacles in the way of the Executive's legislative initiatives in this regard.

This includes, for example, derogation of Decree No. 48-92, on drug trafficking, which breached the terms of article 4 of the American Convention on Human Rights by extending the death penalty to cover offences for which the penalty was not applicable when the Convention entered into force. The possibility should also be considered of doing away with the death penalty once and for all, thereby implementing the declaration on the elimination of the death penalty made by Guatemala and 13 other countries at the closing meeting of the Inter-American Specialized Conference on Human Rights, held in San José from 7 to 22 November 1969.

190. Similarly, the rules of law which involve discrimination against women must be reviewed, o that the Convention on the Elimination of All Forms of Discrimination against Women, which is binding on Guatemala, is properly observed.

191. As pointed out earlier, prompt adoption of legislation to secure effective implementation of the rules of the Constitution concerning the indigenous communities is essential.

Peace process

192. The Expert, whose mandate is confined to the human rights situation, cannot from this standpoint fail to encourage the search for the most appropriate means to bring peace to a country in which the immense majority of the inhabitants are not only affected by the very absence of peace, which involves heavy human and material losses, but also by the militarization of society, social violence and extreme poverty.

193. In this context, attention should be paid to the right of Guatemalan society to have the past cleared up. It is a kind of right to the truth which, with acknowledgement and clarification of the facts, rather than refusal to recognize them, will bring back a healthy society to embark on the task of building up a democratic present and future in which the possibility for committing human rights abuses will be reduced to a minimum.

International humanitarian law

194. As to the implementation of international humanitarian law, it is essential to point out that the minimum level of rights required under article 3 common to the Geneva Conventions substantially coincides with the rights from which no derogation may be made under article 4 of the International Covenant on Civil and Political Rights and article 27 of the American Convention on Human Rights; if Protocol II does eventually apply, its rules will also coincide substantially with those of the Covenant. In any event, over and above the safeguard clause in article 3 common to the Geneva Conventions to the effect that its application does not affect the legal status of the parties to the conflict, the Government does not seem to have noticed that human rights treaties are binding on States, while the article 3 in question imposes obligations on both of the parties to the conflict. What is more, it should be remembered that customary international law prohibits any attack on the civilian population.

Action by the Commission on Human Rights

195. In the opinion of the Expert, the Commission on Human Rights should keep a close watch on the human rights situation and on developments in Guatemala. In this task, the Expert's report and the ensuing debate will doubtless be

important for the Commission, which is a technical-political body, in making a proper decision on the topic. Similarly, it would be of great value if the Government accepted and the international community supported an extension of the tasks now being carried out by the Expert's representative in the verification agency for the return of refugees, so as to ensure a greater presence and activity for the Centre for Human Rights in connection with the human rights situation in Guatemala. To this end, the Commission would need to adopt the appropriate financial arrangements.

Annex

PROGRAMME OF WORK OF THE EXPERT DURING HER FIRST VISIT TO GUATEMALA
(including activities in New York, Mexico and Geneva)

Date	Places visited and persons interviewed
21/11/93	New York
	Permanent Representatives of Guatemala to the United Nations in New York and Geneva; Permanent Representative of Guatemala to the European Union, Brussels; and President of COPREDEH;
	Mr Jean Arnault, Observer of the Secretary-General in the peace negotiations;
	Mr. Alvaro de Soto, principle political adviser to the Secretary-General.
22/11/93	Representatives of the following international non-governmental organizations:
	- International Human Rights Law Group;
	- Americas Watch;
	- Canadian Inter-Church Committee for human rights in Latin America;
	- Centre for Legal Action on Human Rights;
	- Amnesty International;
	- Liga Maya Internacional.
25/11/93	Guatemala City
	Mr. Jorge Mario García Laguardia, Human Rights Procurator;
	Messrs. Carlos Aldana, Luis Ramírez, Alejandro Rodríguez and Luis Fernando Penados, of the Human Rights Office of the Archdiocese of Guatemala;
	Mr. Ramiro de León Carpio, President of the Republic.
26/11/93	Mr. Arturo Fajardo Maldonado, Minister for Foreign Affairs;
	Mr. Alfredo Tay Coyoy, Minister of Eduation;
	Mr. Arnoldo Ortiz Moscoso, Minister of the Interior;
	Joint meeting with representatives of the following non-governmental organizations:
	- Guatemalan Widows' National Coordinating Committee (CONAVIGUA);

Date	Places visited and persons interviewed
	- "Runujel Junam" Ethnic Communities Council (CERJ);
	- Association of University Students (AEU);
	- Confederation of Religious Orders of Guatemala (CONFREGUA);
	- Mutual Support Group (GAM);
	- Relatives of Detained/Disappeared Persons of Guatemala (FAMDEGUA);
	- Guatemalan Workers' Union (UNSITRAGUA);
	- Unidad de Acción Sindical (UASP);
	Monsignor Rodolfo Quezada Toruño, President of the National Reconciliation Commission.
27/11/93	Monsignor Gerardo Flores, President of the Episcopal Conference of Guatemala;
	Mr. David Holiday, representative of Americas Watch.
28/11/93	Rest day.
29/11/93	Mr. J. Roberto Kestler, Deputy Minister of Public Health;
	Mrs Ana María Vargas, acting President of the Judiciary;
	Mr. Mario René Cifuentes, Director-General of the National Police;
	Joint meeting with the following international officials accredited to Guatemala: UNDP Coordinator and Permanent Representative, Mr. Bruno Guandalini; head of mission of the Office of the United Nations High Commissioner for Refugees (UNHCR), Mr. Michel Gabaudan; Director of the UNDP project for displaced persons, refugees and repatriated persons in Central America (PRODERE-Guatemala), Mr. Juan P. Corlazzoli; representative of the United Nations Children's Fund (UNICEF), Mr. Per Engebak; representative of PAM/WHO, Mr. Jacobo Finkelman; adviser of the World Food Programme, Mr. Fernando C. Witte; and a representative of FAO;
	Mr. Jean Pierre Givel, representative of the International Committee of the Red Cross (ICRC);
	Mr. Gunther Müssig, head of mission of the International Organization for Migrations (IOM);
	Mr James Fox, Ambassador of Canada to Guatemala;
	Representatives of the General Workers' Union.

Date	Places visited and persons interviewed
30/11/93	Mr. Héctor Rosada, coordinator of the Peace Commission (governmental);
	General José Luis Quilo Ayusa, head of the Chiefs of Staff;
	General Mario Enríquez Morales, Minister of Defence;
	Mr. Mario Alfredo Mérida G., Director of Intelligence of the Chiefs of Staff;
	Mr. Augusto Willemsen Díaz, adviser of the United Nations Centre for Human Rights for indigenous populations;
	Representatives of the Myrna Mack Foundation;
	Mrs. Clara Arenas, director of the Institute for the Advancement of the Social Sciences (AVANCSO);
	Professor Guillermina Herrera, representative of the Academy of Mayan Languages;
	Mr. Miguel Matías and Mr. Miguel Ceto López, representatives of the Council of Mayan Peoples;
	Messrs. Factor and Antonio Méndez Doninelli, representatives of the Centre for Human Rights Research, Study and Promotion (CIEPRODH);
	Mrs. Kathy Armstrong of the Centre for Legal Action on Human Rights.
1/12/93	Mr. Carlos Alarcón Monsanto, president of the Human Rights Commission of the Congress of the Republic;
	Mr. José Fernando Lobo Dubón, president of the Legislature;
	Mr. Everardo Ramírez Yat, president of the Congressional Commission on Indigenous Communities;
	Mrs. Ana de Molina, executive secretary to the President of the Republic.
	Santiago Atitlán (Department of Sololá)
	Accompanied by the Human Rights Procurator, the Expert visited the school and the town hall after touring the town.
2/12/93	Guatemala
	Colonel Otto Fernando Pérez Molina, chief of the Presidential General Staff;
	General José Horacio Soto, director of the Mobile Military Police;

Date	Places visited and persons interviewed
	Visit to the Pavón-Fraijanes rehabilitation farm and tour of its facilities. Interviews with the Governor and the prisoners J. Guillermo Lemus, J-P. Bernard and P. Biret;
	Mrs. Rosalina Tuyuc of CONAVIGUA;
	Representatives of the Communities in Resistance (CPR);
	Representatives of the Association of Small and Medium-sized Enterprises;
	Representatives of International Peace Brigades;
	Mr. Alvaro Colom Caballeros, director of the National Fund for Peace (FONAPAZ);
	Mrs. Marta de Carpio, widow of Mr. Jorge Carpio Nicolle;
	Members of the International Returnees Support Group (GRICAR), and the Mediation Office and Verification Office for the return of Guatemalan refugees in Mexico;
3/12/93	Mr. Alfonso Fuentes Soria, Rector of the University of San Carlos;
	Mr. Jorge Cabrera, director, and members of COPREDEH;
	Mr. Telésforo Guerra Cahn, Public Prosecutor and head of the Ministry of the Interior;
	Representatives of the Association for Social Research and Studies (ASIES);
	Mr. Juan León Alvarado, member of Defensoría Maya;
	Mr. Emeterio Cumes and Mr. Alfredo Cupil of the board of directors of Delegación Convenio 169 of the Permanent Assembly of Mayan Peoples;
	Mr. Fernando Linares, president of the United Nations Association of Guatemala (AGNU);
	Representatives of the National Women's Office (ONAM);
	Mr. Raúl Molina, member of the Joint Office of the Guatemalan Opposition (RUOG);
	Members of the Workers' Union of the former National Housing Bank (BANVI);
	Members of the Coordination Office of Civilian Sectors and the Civil Coordination Office for Peace.

Date	Places visited and persons interviewed
4/12/93	Triángulo Ixil (Department of El Quiché)
	Accompanied by Mr. Jorge Roche, representative of the Human Rights Procurator, the Expert visited the following places:
	Cabá
	La Sierra Communities in Resistance.
	Chajul
	Military base;
	Padre Rosolino Bianchetti, Catholic priest;
	Mr. Jaime Mendoza, representative of PRODERE.
	Nebaj
	Military base;
	Deputy Human Rights Procurator.
5/12/93	Ixcán (Department of El Quiché)
	Accompanied by Mr. Jorge Roche, representative of the Human Rights Procurator, and Mr. Mateo Baltasar, representative of the Ixcán CPR, the Expert visited the following places:
	Playa Grande military base;
	Los Angeles Community in Resistance;
	Tercer Pueblo military base;
	Polígono 14: Victoria 20 de Enero community
6/12/93	Guatemala City
	Mr. Jorge Mauricio Rodríguez Weber, executive director of CEAR;
	Meeting and working lunch with the President of the Republic, Ramiro de León Carpio;
	Press conference;
	Ambassadors of the European Union.
7/12/93	Mrs. Gladys Morfin, Minister of Labour;
	Press conference;
	Departure from the country.

Date	Places visited and persons interviewed
8/12/93	Mexico City
	Mrs. Julia Artiga and Mr. José Díaz Esteban of the Permanent Committees for Guatemalan Refugees in Mexico;
	Mr. Alfreso Witschi, head of mission of UNHCR;
	Mrs. Carmen Camey and Mr. Victor Martínez of the Human Rights Commission of Guatemala.
9/12/93	Mrs. Rigoberta Menchú, Nobel Prize Winner;
	Comandantes Gaspar Ilom and Rolando Morán of the Unidad Revolucionaria Nacional Guatemalteca;
	Ambassador Rosario Green, Under-Secretary for Latin America of the Ministry of Foreign Affairs of Mexico.
11-16/12/93	Geneva
	Consultations with the Secretariat;
	Drafting of the report;
	Final adoption of the report.